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FAIR LABOR STANDARDS AMENDMENTS OF 1972

JUNE 8, 1972.—Ordered to be printed

Mr. WILLIAMS, from the Committee on Labor and Public Welfare, submitted the following

REPORT

together with

INDIVIDUAL AND MINORITY VIEWS

[To accompany S. 1861]

The Committee on Labor and Public Welfare, to which was referred the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.25 an hour, to provide for an eight-hour workday, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and a title amendment, and recommends that the bill as amended do pass.

SUMMARY

The purpose of this bill, as amended by the Committee, is to incorporate into the Fair Labor Standards Act a sufficient breadth of coverage and a minimum wage level which will bring the Act closer than at any time in its 33-year history to meeting its basic, stated objective—the elimination of "labor conditions detrimental to the maintenance of the minimum standard of living necessary for the health, efficiency and general well being of workers."

The bill seeks to achieve this purpose by extending the law beyond the 45.4 million currently covered employees to 8.4 million additional workers employed in retail and service industries, Federal, State and local government activities, on farms and as domestics in private homes, and by increasing the minimum wage in steps to $2.20 an hour as follows:

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	Effective date	1 year later	2 years later	3 years later
Pre-1966 coverage	$2.00	$2.20		
Coverage by 1966 and 1972 amendments	1.80	2.00	$2.20	
Farmworkers	1.60	1.80	2.00	$2.20

The Committee bill extends minimum wage coverage to the following additional workers:

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES BROUGHT UNDER THE MINIMUM WAGE PROVISIONS OF THE FAIR LABOR STANDARDS ACT BY S. 1861, UNITED STATES [1]

[In thousands]

Industry	Presently covered by the minimum wage provisions of the FLSA	Exempt or not covered by minimum wage provisions of the FLSA		
		Total	Covered by S. 1861	Not covered by S. 1861
All industries	45,383	14,713	8,369–8,444	6,269–6,344
Private sector	42,056	9,786	3,442–3,517	6,269–6,344
Agriculture	495	741	75–150	591–666
Mining	552	5		5
Contract construction	3,175	15		15
Manufacturing	16,389	107	45	62
Transportation, communications, utilities	3,962	74	24	50
Wholesale trade	2,522	8		8
Retail trade	6,222	4,002	1,423	2,579
Finance, insurance, real estate	2,490	149	25	124
Services (excluding domestic service)	6,249	2,571	617	1,954
Domestic service		2,114	1,233	881
Public sector	3,327	4,927	4,927	
Federal Government	641	1,726	1,726	
State and local government	2,686	3,201	3,201	

[1] Includes all employees brought under the act by lowering the enterprise annual dollar volume test to $150,000 in four stages and by eliminating the 13(a)(2) establishment exemption.

Note: Estimates exclude 2,015,000 outside salesmen and relate to May 1971 for agriculture, October 1971 for education, and September 1971 for all other industries.

At present only 3 percent of the Nation's farms are covered by the Fair Labor Standards Act. Under the Committee bill at least 90 percent of all the Nation's farms will remain uncovered by the Act. The only farms covered will continue to be the relatively large users of agricultural labor. The small family farm will continue to be exempt from coverage under the Act.

The overwhelming majority of retail and service establishments will remain exempt under the provisions of S. 1861. Estimates furnished the Committee indicate that at least 1 million retail and service establishments will continue to remain exempt from coverage. A complete exemption for the so-called "Mom and Pop" stores will remain.

The present minimum wage of $1.60 an hour was established by amendments to the Fair Labor Standards Act enacted in 1966. For most workers the $1.60 rate went into effect on February 1, 1968 (an interim raise from $1.25 to $1.40 was effective February 1, 1967). For newly covered non-farmworkers, the rate increased from $1.00 per hour effective February 1, 1967, by 15¢ per hour per year, until the $1.60 rate was reached February 1, 1971. For farmworkers, the rate of $1.00 was established effective February 1, 1967, with increases

of 15¢ per year until the present rate of $1.30 was reached, effective February 1, 1969.

Committee Consideration of Legislation

The pending bill is the result of long and careful study. The Subcommittee on Labor began public hearings on two bills (S. 1861 and S. 2259) to amend the Fair Labor Standards Act of 1938 on May 26, 1971. Hearings continued throughout the summer for 17 days, concluding on September 30, 1971. Testimony was received from over 100 witnesses, including Secretary of Labor James D. Hodgson and other witnesses from government, labor, industry and other interested groups. In addition, several hundred statements, letters, and additional pieces of written information were submitted and included in the official hearing record.

On April 11, 1972, the subcommittee concluded 5 days of consideration of S. 1861 in executive session and reported the bill to the full committee. After 9 days of executive sessions, the Committee on Labor and Public Welfare ordered reported to the Senate S. 1861. The Committee also had before it the hearings on the bill reported out by the House Committee on Education and Labor together with that Committee's report dated November 17, 1971. In the later stages of the Committee's deliberations, the Committee was able to consider S. 1861 in light of the House debates and with knowledge of the provisions in the House minimum wage bill, H.R. 7130, which was passed by the House on May 11, 1972.

Background

On January 20, 1937 President Roosevelt, in his Second Inaugural Address said:

> "I see one-third of a nation ill-housed, ill-clad, ill-nourished * * * The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little."

The Fair Labor Standards Act of 1938 took effect on October 24, 1938. The Act is frequently referred to as a "depression measure" because many of its advocates stressed its importance as a tool, to prop up the economy after the depression. During periods of recession, the law is looked to as a support for wages; during periods of prosperity the law protects the low wage worker who finds himself frozen into a pocket of low wages. At all times, it protects fair-minded employers against those who compete unfairly by paying substandard wages.

The original Act provided for a minimum wage of 25 cents an hour, which was to be increased to 30 cents at the end of a year, and to 40 cents by 1945. Industry Committees were authorized to recommend rates above 30 cents prior to October 1945. All employees subject to the minimum wage were required to be paid at least 40 cents an hour by October 24, 1945.

Actually, by virtue of the action of the Industry Committees, a minimum wage of 40 cents was applicable to all workers covered by the Act on July 1944, more than a year before the date set by the Fair Labor Standards Act of 1938.

The FLSA Amendments of 1949 increased the minimum wage from 40 cents to 75 cents an hour. During World War II and the postwar period, many employees realized significant gains in purchasing power. However, just as today, the minimum wage worker saw his buying power eroded. An increase in the minimum wage from 40 cents to 75 cents an hour, an increase of 87½ percent, reflected the recognition by the Congress of the total inadequacy of the 40 cents rate.

During Congressional consideration of amendments to the FLSA, culminating in the 1949 amendments to the Fair Labor Standards Act, numerous bills were introduced to extend the scope of coverage of the Act. These were not considered because at that time it was believed that it would not be feasible to simultaneously increase the minimum wage and expand coverage. Although there was considerable evidence that both were essential if the Act were to accomplish its basic purposes, the Congress opted for an increase in the level of the minimum wage and large numbers of low-wage workers remained outside the scope of the Act.

By 1955, the buying power of the minimum wage of 75 cents an hour had been severely reduced by the inflation which followed the outbreak of the Korean War. Bills were introduced to raise the level of the minimum wage and to expand the coverage of the Act. The Congress elected to raise the minimum wage to $1.00, a 33⅓-percent increase, an hour but once again deferred consideration of the question of coverage. In the 1961 amendments the Congress reflected the growing recognition that both an increase in the minimum wage and extension of coverage were essential if substandard living conditions were to be eliminated. The minimum wage was raised to $1.25 an hour and an additional 3½ million workers, principally in the retail and construction industries, were brought under the Act for the first time.

The effects of this dual approach to improving the Fair Labor Standards Act were closely studied by the Department of Labor. The studies clearly showed that the expansion of coverage under the Act was of critical importance in reducing poverty among the working poor. The 1961 amendments also showed that the economy could benefit from an increase in the minimum wage and an expansion of coverage.

In his report to the Congress evaluating the effects of the 1961 amendments, Secretary of Labor Wirtz said:

> "Two clear conclusions emerge from the studies so far made. First, the 1961 minimum wage increases had no discernible effects on average wages in the economy generally. There is no indication that these increases produced any general upward pressure on the wage structure. Second, the 1961 minimum wage increases had no discernible effect on the nationwide level of employment in the industries affected. On an overall basis, employment has risen in these industries since the 1961 amendments took effect."
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> * * * * *
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> "On balance, the data lead to the conclusion that the changes in the law which became effective on September 3, 1961 brought substantial benefits to low paid workers in many areas of the country, and that the increases in their incomes and purchasing power had beneficial effects in the communities in which they work."

Perhaps the most important aspect of the 1961 amendments was that they reflected the rejection by the Congress of the argument that substandard wages should be retained in some industries and occupations so as to provide a pool of low wage jobs.

With the 1966 amendments, the Fair Labor Standards Act came closer than at any time in its history to achieving its basic goal. Both in terms of breadth of coverage and the level of the minimum wage, Congress finally legislated standards which would considerably diminish "labor conditions detrimental to the maintenance of a minimum standard of living necessary for health, efficiency and general wellbeing of workers." The increase in the minimum wage to $1.60 an hour meant that a worker who worked year around could provide his or her family with something more than the poverty standard of living as determined by the Federal Government. The extension of coverage to approximately 11 million additional workers brought fair labor standards to some of the poorest workers in the economy.

By deleting or narrowing a number of exemptions under the Act and by revising the definition of "employer" and "enterprise engaged in commerce" the 1966 amendments extended the protection of the Act to additional employees in the private sector and, for the first time, to government employment in State and local hospitals and schools. The 1966 amendments incorporated other "firsts" in terms of coverage—laundries (other than industrial), hotels, restaurants and farms. This meant that workers in some of the lowest paid dead-end jobs were, after almost 30 years, guaranteed certain minimum labor standards. It also meant that for the first time in its history, the law protected almost two-thirds of black workers and almost three-quarters of women workers.

The goal of the amendments embodied in the committee bill is to update the level of the minimum wage and to continue the task initiated in 1961—and further implemented in 1966—to extend the basic protection of the Fair Labor Standards Act to as many workers within the reach of Federal authority as is feasible at this time.

Need for the Bill

We have made substantial progress in eliminating poverty in America since President Roosevelt's 1937 Inaugural Address, but today 26 million Americans—13% of our population—are still living in poverty by official government standards.

The present minimum wage of $1.60 yields to a full-time working head of a family of four only $3,200 per year, almost $800 less than the poverty level and leaves that working-poor family eligible for welfare. Thus, the standards incorporated in the present law both in terms of scope of coverage and the level of the minimum wage now fall short of insuring that every person in this country who works full-time, year-round will be able to provide his or her family with the basic necessities of life without reliance upon welfare.

The present minimum wage of $1.60 an hour ($1.30 for farm workers) was set by the Congress in 1966. At that time it was heralded as a wage rate which would move the working poor above the poverty threshold. However, economic developments in the last several years have drastically curtailed the purchasing power of the minimum wage.

Between 1966, when Congress amended the FLSA to increase the Federal minimum wage from $1.25 to $1.60 an hour and April 1972, the consumer price index rose 27%. Between February 1, 1968, the date the $1.60 rate actually became effective for most workers, and May 1972, the consumer price index rose 21.4%. Thus a substantial increase in the minimum wage is necessary merely to restore the purchasing power of low wage workers to the levels established by Congress in 1966. In addition, average hourly earnings have increased by 34 percent over the same period. Of great significance is the fact that the number of people living in poverty increased between 1969 and 1970, the first increase since such records have been kept.

These facts and figures alone explain the necessity for a minimum wage increase at this time.

Witnesses before this Committee differed as to how much of an increase should be legislated, but the testimony was overwhelmingly in favor of an increase now. The Secretary of Labor, for example, testified in support of a minimum wage increase and predicated his support on increases in wage rates generally and on rising prices. He noted that increasing the minimum wage would increase the purchasing power of the low-wage sector of the work force. The Committee considered not only the need for an increase in the minimum wage for workers now at the minimum but the needs of those workers for whom no wage floor has been estabished. The benefit which the economy generally would derive from updating the FLSA was another important element. Together these pointed to a higher minimum and broader coverage.

Furthermore, American workers have traditionally shared, through increased wages and fringe benefits, in rising productivity. Between 1966 and 1972, productivity rose 10.0% and experts from the government and the business community have projected an average yearly increase of about 3% for the decade ahead. The Committee believes that low wage workers should share in the benefits of increased productivity, just as other workers do, and has therefore taken this into account in establishing the $2.20 ultimate rate in the bill.

Moreover, the minimum wage rate enacted by Congress has traditionally reflected not only increases in the cost of living and increases in productivity, but has also reflected increases in the standard of living enjoyed by most Americans. In 1968 the ratio of the minimum wage rate to the average manufacturing rate was 55%. Based on the present average manufacturing wage of $3.77 an hour, maintenance of that ratio would justify an immediate increase in the present minimum wage rate to $2.07.

Most importantly, as noted above, the poverty level income for an urban family of four, as estimated by official government agencies, is now approximately $4,200 per year. In order to earn that income the head of a four-person household employed full-time would have to be paid at a rate of approximately $2.02 an hour.

The present bill is an attempt to insure that millions of low wage workers throughout the nation—workers whom this Act is specifically designed to protect—will regain the ground they have lost because of the inflation which we have experienced in recent years. Congress has previously recognized in the Economic Stabilization Act Amendments

of 1971 that these low wage workers should not be subject to the wage controls currently applicable to other workers. As stated in that legislation:

> "(d) Notwithstanding any other provisions of this title, this title shall be implemented in such a manner that wage increases to any individual whose earnings are substandard or who is a member of the working poor shall not be limited in any manner, until such time as his earnings are no longer substandard or he is no longer a member of the working poor. . . .
>
> "(f) The authority conferred by this section shall not be exercised to preclude the payment of any increase in wages—
>
> "(1) required under the Fair Labor Standards Act of 1938, as amended, or effected as a result of enforcement action under such Act; . . ."

This Committee does not believe that a successful anti-inflation program depends upon keeping the income of millions of American workers below officially established poverty levels.

The Committee also believes that by raising the minimum wage rate, extending minimum wage protection to millions of low wage workers who do not currently enjoy such protection, and by eliminating overtime exemptions where they have been shown to be unnecessary, the economy will be stimulated through the injection of additional consumer spending and the creation of a substantial number of additional jobs.

Finally, the Committee believes that establishment of a minimum wage rate at a level which will at least assure the worker of an income at or above the poverty level is essential to the reduction of the welfare rolls and overall reform of the welfare system in the United States.

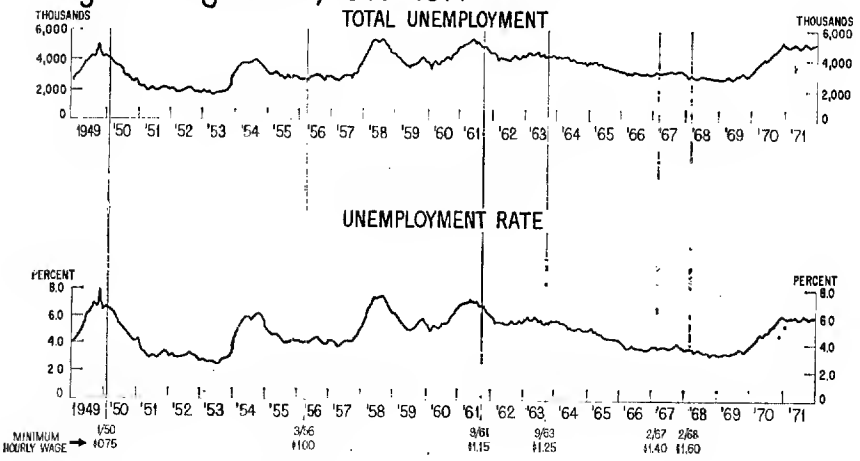
The Committee minimum wage proposal reflects a careful analysis of the history of previous amendments to the Fair Labor Standards Act, the economic effects of prior increases and expansions of coverage, and the latest economic indicators.

Each time Congress has considered minimum increases and expansions of coverage under the law, opponents to such action have raised the specter of economic doom. Congress was warned on each of those occasions that the legislation would cause spiralling inflation and increased unemployment. Yet, a close examination of the economic data shatters this illusion of doom. The simple fact is that the prohecies have proven false. Every economic effects study by the Department of Labor, under both Democratic and Republican Administrations, demonstrates this fact. In the words of the most recent report by Secretary Hodgson:

"On balance, the wage increases granted to 1.6 million workers to meet the $1.60 minimum wage standard had no discernible adverse effect on overall employment levels, and relatively little impact on overall wage or price trends."

The following chart clearly demonstrates that minimum wage increases have never resulted in increased unemployment. On the contrary, as the chart indicates, subsequent to the 1949, 1961, and 1967–1968 minimum wage increases, unemployment actually decreased, and in the case of the 1956 minimum wage increase, unemployment remained stable.

The Minimum Wage Under The Fair Labor Standards Act And Total Unemployment By Rate And Level, Seasonally Adjusted By Month, 1949-1971



SOURCE: Based on statistics provided by U.S. Department of Labor

The Committee recognized that a higher minimum wage may mean increased employer costs, but it also means increased purchasing power in the hands of the poor and a greater demand for goods and services. For the worker, it means less hardship and greater dignity. For the Government, it means lower welfare costs.

The Committee recognized an economic fact of life. Low wages do not produce additional jobs. Jobs are created when business is expanding and future prospects are promising. According to the Administration, such conditions exist today. In addition, money in the hands of the working poor is one device for further improving the economic well-being of the country.

The Present Act

According to data submitted to the Congress by the Department of Labor in 1972, an estimated 45.4 million nonsupervisory workers are presently subject to the minimum-wage provisions of the FLSA. This figure represents three-quarters of the employed nonsupervisory labor force.

The 1972 report from the Department of Labor noted that significant coverage gaps still exist. In the private sector, for example, an estimated 11.8 million nonsupervisory employees are not protected by the Federal minimum-wage standard. Of these, almost 7 million are employed in retail trade and service establishments, more than 2 million are in domestic service, and about three-quarters of a million are farm workers. The remainder are outside salesmen or are engaged in certain miscellaneous activities.

In the public sector, about 60 percent of the nonsupervisory employees of Federal, State and local governments are not subject to the Federal minimum wage.

S. 1861 provides minimum wage protection for an additional 8.4 million workers.

The gaps with respect to overtime coverage are even greater than those with respect to minimum-wage coverage. Approximately 39 million nonsupervisory employees are subject to the overtime compensation provisions of the Act. While three-fourths of all nonsupervisory workers are required to be paid at least the minimum wage, only two-thirds are required to be paid time-and-one-half their regular rates of pay for all hours over 40 in a week. In part, the more limited overtime coverage reflects the fact that many of the workers who were covered for the first time by the 1966 amendments to the Act were guaranteed the minimum wage but were denied overtime protection.

S. 1861 provides overtime protection for an additional 8.1 million workers.

Reports from the Labor Department make clear that State laws do little to fill the gaps in the FLSA in the case of the minimum wage and even less where overtime is concerned.

Major Provisions of the Bill

MINIMUM WAGE

The bill provides for a statutory minimum wage of $2.20 an hour for all covered workers but establishes different time schedules for achieving this standard for various categories of employment, to ensure ease of adjustment. Fundamental to the Committee's deliberations was the notion of parity—that all workers should be treated alike for purposes of minimum wage. However, mindful of the historical development of the Fair Labor Standards Act and in line with the need to mitigate the initial impact of expanded coverage, the Committee provided for staged increases in the minimum wage depending upon when specific workers were first brought under the Act. All mainland non-farm workers covered prior to 1966 will attain a $2.20 minimum wage one year after enactment. An additional step is provided for non-farm workers newly covered under the 1966 and 1972 amendments. They will reach parity with other workers at the $2.20 rate two years after enactment. Farmworkers will achieve parity at the $2.20 rate three years following enactment. In addition, special provision is made for achieving minimum wage parity for workers in Puerto Rico and the Virgin Islands.

A. On the effective date (60 days after enactment), the bill requires that (a) employees in activities covered prior to the 1966 amendments (and Federal government employees covered by the 1966 amendments, other than employees of the Canal Zone), will be paid at least $2.00 an hour, (b) nonfarm employees in activities covered by the 1966 and the 1972 amendments will be paid $1.80 an hour (including Federal Government employees in the Canal Zone), and (c) farmworkers will be paid at least $1.60 an hour.

The implementation of the first stage of the proposed 1972 amendments will mean that 6.1 million workers or less than 12 percent of the almost 54 million covered workers (including workers covered for the first time by the 1972 amendments) are to receive wage increases on the effective date, although the annual wage bill will be increased by

only .8 of one percent (or $2.8 billion) in order to comply with the statute.

B. One year from the effective date, the bill requires that (a) employees in pre-1966 coverage activities and employees of the Federal Government (other than Canal Zone employees) will be paid at least $2.20 an hour, (b) employees covered by the 1966 and 1972 amendments (except farmworkers) will be paid at least $2.00 an hour, and (c) farmworkers will be paid at least $1.80 an hour.

The second stage of the proposed 1972 amendments will mean wage increases for about 8.4 million workers and will require an increase in the annual wage bill of only .7 of one percent (or $2.4 billion) one year after the effective date.

C. Two years from the effective date, the bill requires that the statutory minimum wage of $2.20 an hour apply to all employees (except farm workers) covered by the Act including employees in 1966 and 1972 coverage activities. Farmworkers are required to be paid at least $2.00 an hour.

This stage of the proposed 1972 amendments will require wage increases for more than 5.6 million workers and an increase in the annual wage bill of .5 of one percent (or $1.8 billion).

D. Three years from the effective date the bill requires that a minimum wage of $2.20 apply to farmworkers.

This stage will require increases for approximately 400,000 workers and an annual wage bill increase of .04 of one percent.

The increase for most covered workers to $2 an hour immediately is necessary if we are to reverse the recent upward trend in the number of persons living in poverty. A further increase to $2.20 is essential if we are to guard against increasing the number of working poor next year. The Bureau of the Census reports that the number of poor persons increased by 6 percent between 1969 and 1970. This is the first time since poverty data were tabulated in 1959 that there has been a significant increase in the number of poor.

The Bureau of the Census reports that a non-farm family of four requires an income of $3,968 per year in 1970 dollars, about $4,200 in present dollars, to begin to lift itself above the government-defined poverty line. Yet several million families—including those headed by full-time year-round workers—have lower annual incomes.

If the conditions that poverty breeds in this country are to be changed, poverty wages must be eliminated. These conditions will not change unless the FLSA minimum wage is increased, because minimum wage workers rarely have the bargaining position or the skills necessary to increase their wages as the cost of living increases. In essence, Congress is the bargaining agent for the Nation's working poor.

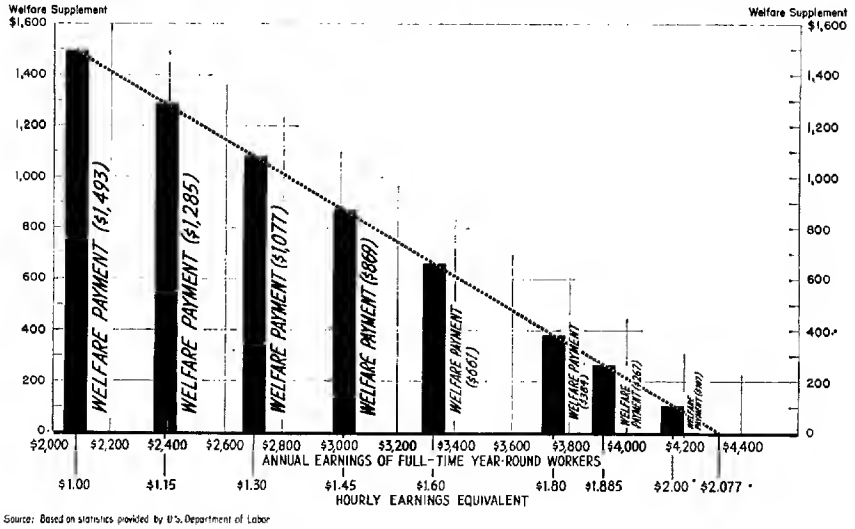
Of great importance, the Committee was well aware throughout its deliberations that workers who toil at the minimum wage level are poor people by the standards of our society. They are working full-time, but they are poor. In the 1969 report on the minimum wage, Secretary of Labor Wirtz stated that: "Poverty" is erroneously identified in loose thinking with "unemployment." * * * "Whatever basis there is in any of these criticisms or proposals (of anti-poverty efforts) commends strongly a first step of seeing to it that when a

person *does* work he gets enough for it to support himself and his family."

The relationship between welfare and minimum wage cannot be denied. Programs now before Congress, most notably H.R. 1, embody the concept of governmental support for working people who are not paid enough to escape poverty. The Committee was pursuaded that only a reasonable minimum wage, in keeping with the continued rise in the cost of living, could end the welfare cycle. Overwhelmingly, the members believed that an individual, working full-time, ought not to be forced to rely upon welfare to provide an above-poverty level existence for his or her family. Under the provisions of H.R. 1 as passed by the other body, a minimum wage of $2.08 is necessary for a full-time working head of a family of four to earn enough to escape eligibility for public assistance, and the indignity that accompanies such eligibility. In approving an ultimate-stage increase, the Committee acted to make the sight of a full-time worker on welfare a thing of the past. Of equal importance, the practice of governmental subsidization of wages through welfare payments to the working poor will be at an end, at a tremendous saving to the taxpayers and with a significant boost to the moral and the dignity of the working poor of this country.

The following chart dramatically demonstrates the relationship between welfare and the minimum wage.

Administration's Welfare Supplement (4-Person Family) To Earnings Of Full-Time Year-Round Workers Paid At Specified Minimum Hourly Rates



Source: Based on statistics provided by U.S. Department of Labor

This legislation will not end poverty. But, at least, we must assure something more than poverty for those Americans who are willing to work.

An immediate increase in the minimum wage to more than $2 an hour is also required by the inflationary rise of living costs and is justi-

fied by the post-World War II trend of increasing productivity in the national economy.

As noted previously, between 1966, when Congress amended the FLSA to increase the Federal minimum wage from $1.25 to $1.60 an hour, and April 1972 the Consumer Price Index rose 28%. This sharp rise has cut the buying power of the $1.60 minimum. Indeed, the buying power of the $1.60 minimum wage is less today than the buying power of the $1.25 minimum was in 1966, when Congress decided the $1.25 rate was too low.

The $2.20 statutory minimum wage does something more than merely offset the price rises that have occurred since the 1966 amendment. It reflects the decision of the Committee that the low-wage worker should share in the increases in productivity. Indeed, all American workers have an economic and moral right to share in the economy's rising productivity. This approach to minimum wage determination is spelled out in Section 4(d) of the FLSA in which the Congress directs the Secretary of Labor to "take into consideration any changes which may have occurred in the cost of living and in productivity" in evaluating and appraising the minimum wage.

In the course of its deliberations, the Committee rejected, by a 13–4 vote, an attempt to cut back the increase in the minimum wage. The Committee believes that the minimum wage worker, who has not had a raise for 5 years, should not now be asked to continue to suffer from the heavy burden of inflation. Even during the strict controls imposed during World War II, a 33-percent increase in the minimum wage was implemented. Traditionally, exceptions for the working poor have characterized wage stabilization policies. The current economic controls are no exception, Congress having exempted low-wage workers in the Economic Stabilization Amendments of 1971. To carry out this policy, the Cost of Living Council decontrolled the wages of all workers making less than $1.90 an hour. The Pay Board has authorized annual wage increases of up to 5.5 percent; applying this to a wage of $1.90 would result in an hourly wage of over $2.00 an hour.

Past experience with changes in the Fair Labor Standards Act would indicate that the economy can adjust easily to the proposed new wage rate.

Since 1938, the argument has been advanced that increasing the minimum wage and expanding the coverage of the FLSA is both inflationary and a cause of unemployment. These assertions simply have not been borne out by the facts accumulated after each increase. The overwhelming weight of the evidence suggests that a raise in wages for the working poor has no adverse impact on the general economic conditions in the country. In fact, after each increase in the minimum, there has been an increase in employment levels with no increase in the rate of inflation, except where other extraneous factors have intervened.

The cost-impact of the first phase of the bill would be .8 of one percent of the economy's total wage bill. Certainly the economy can afford to devote at least this amount of its total wage and salary expenditures to raising the wages of the nation's lowest paid workers.

EXTENSIONS OF COVERAGE

The Committee recognizes and the bill reflects an awareness that to raise the minimum wage without expanding the coverage of the Act

would serve to deny even the minimum benefits of the Act to large groups of workers who have been denied the protection of the Act for more than 30 years.

Just as in 1961 and 1966, witnesses before this Committee described the plight of workers who are excluded from the Act. And, as in 1961 and 1966, the Committee agreed that a further expansion of coverage was essential if the basic objective of the Act—the elimination of "labor conditions detrimental to the maintenance of a minimum standard of living necessary for health, efficiency and general well-being of workers" was to be achieved.

The Committee was particularly impressed by the ease with which the economy adjusted to the 1966 amendments to the Fair Labor Standards Act which provided for a substantial increase in coverage—approximately 11 million workers—as well as an increase in the minimum wage from $1.25 to $1.60.

The importance of the minimum wage to low wage workers was described by Secretary of Labor Shultz in his January 30, 1970 report to the Congress on matters pertaining to fair labor standards. He stated:

> One of the major goals of this Administration is to get people off the welfare rolls and on to payrolls. Once having achieved that, unless the worker receives the minimum wage he is more likely to fall back on the welfare rolls. Accordingly, the vital and meaningful role of the Wage and Hour Division continues to be the vigorous and effective enforcement of the FLSA to insure that employees receive at their work places those rights which the Congress intended for them.

In 1971 and 1972 Secretary of Labor Hodgson submitted reports to the Congress in which emphasis was placed on the importance of the minimum wage increases and the absence of adverse effects. The report for 1971 stated:

> In view of overall economic trends, it is doubtful whether changes in the minimum had any substantial impact on wage, price, or employment trends. Of much greater significance, however, is the fact that the 15-cent boost did help two million workers recover some of the purchasing power eroded by the steady upward movement of prices which had started even before the enactment of the 1966 amendments.

The 1972 Report draws the following conclusions about the effects of the final phase of the 1966 amendments:

> On balance, the wage increases granted to 1.6 million workers to meet the $1.60 minimum wage standard had no discernible adverse effect on overall employment trends, and relatively little impact on overall wage or price trends.

The Committee reviewed present coverage, as well as the gaps therein, and determined that a strong need exists for covering domestics and additional workers in retail and service industries and in government. The Committee carefully examined the economic implications of extending coverage and was persuaded that wages would go up for workers on the lowest rung of the wage ladder and that the econ-

omy could easily absorb these raises. The Committee bill would expand coverage as follows:

NUMBER OF NONSUPERVISORY EMPLOYEES
[In thousands]

Industry	Expanded coverage	Present coverage	New coverege under S. 1861
All industries	53, 752–53, 827	45, 383	8, 369–8, 444
Private sector	45, 498–45, 573	42, 056	3, 442–3, 517
Retail trade	7, 645	6, 222	1, 423
Services (except domestic)	6, 866	6, 249	617
Domestic service	1, 233	-------	1, 233
All other	29, 754–29, 829	29, 585	169–244
Public sector	8, 254	3, 327	4, 927
Federal Government	2, 367	641	1, 726
State and local government	5, 887	2, 686	3, 201

Note: Estimates reflect employment in September 1971, except for agriculture (May 1971) and for education (October 1971). Data exclude 2,015,000 outside salesman. Includes all employees brought under the act by lowering the enterprise annual dollar volume test to $150,000 and eliminating the 13(a)(2) establishment exemption.

Retail trade and services (except domestics)

The Committee bill would extend the Fair Labor Standards Act to employees of retail and service enterprises with annual receipts of $150,000 to $250,000 in four steps. In addition, employees of all stores of chains with $150,000 or more in annual receipts would be covered in the same four step process. On the effective date, the Act would apply to employees of retail and service enterprises with $225,000 in annual receipts. At the end of a year the receipts test would be $200,000; at the end of 2 years, $175,000; and $150,000 at the end of the third year, and thereafter.

Currently, the Act protects about 12.5 million nonsupervisory workers in retail trade and services. The Committee bill would increase coverage in these activities by 2 million workers, exclusive of domestics.

The bill eliminates the special exemption for smaller stores of large covered chains. Currently, two stores of the same chain are treated differently under the Act. For example, if a million dollar chain has 10 stores, 9 of which have annual sales in excess of $250,000 and one has receipts of less than $250,000, the Act currently applies to employees of the 9 stores, but not to the employees of the smaller store of the same chain. Employees in the 9 stores are currently guaranteed the protection of the FLSA, but the employees of the 10th store have no such protection. This inequity would be rectified if all establishments of a covered chain were treated equally under the law.

The bill would gradually add to coverage those enterprises with annual receipts of $150,000 to $250,000. The reduction of $25,000 per year in the enterprise sales-size test was designed to ensure maximum ease of adjustment. The bill would not directly affect small retail and service firms nor would it extend coverage to the so-called "Mom & Pop" stores.

This bill would not only protect many of the retail and service employees who were not benefited by the 1961 and 1966 amendments to the Fair Labor Standards Act, but it would also protect small shop-

keepers, who are covered by the law, from being undercut by retail or service establishments which may be part of multimillion dollar enterprises, yet are exempt from the Act and pay subminimum wages.

Once again the Committee looked to special reports of the Department of Labor which were designed to determine how employers adjusted to the extensions of coverage to retail and service activities in 1961 and 1966. Repeatedly these reports stated that employment increased in activities newly covered by the FLSA. For example, the Labor Department's nation-wide survey of restaurant employees shows that employment increased by 3900 workers between October 1966 and April 1967, the period spanning the effective date of the initial phase of the 1966 amendments to the minimum wage law. The Labor Department reported that the "largest employment increase occurred in the South where the wage impact was greatest." It is apparent from the various reports that the retail and service industry has adjusted to FLSA coverage with relative ease.

Domestic service employees in private households

The bill would bring under the minimum wage provisions of the Act all employees in domestic service, except babysitters, but retains an overtime exemption for such domestic service employees.

The reasons for extending the minimum wage protection of the Act to domestics are so compelling and generally recognized as to make it hardly necessary to cite them. The status of household work is far down in the scale of acceptable employment. It is not only low-wage work, but it is highly irregular, has few if any non-wage benefits, is largely unprotected by unions or by any Federal or State labor standards.

According to the Bureau of the Census, approximately 340,000 women employed as private household workers worked year-round full-time in 1969, yet their earnings averaged only $1,926 for the year. While the situation of day workers, in terms of duties, hours, and wages has improved somewhat in recent years, the majority of them continue to lag far behind other workers in terms of pay, fringe benefits, and working conditions, generally.

It is important to note that even in a period of high unemployment such as exists today, the demand for household workers is not being met. Bringing domestics under the Fair Labor Standards Act would not only assure them a minimum wage but would enhance their status in the community. It is expected that the supply of domestic workers will increase as their pay and working conditions improve. Minimum wages should serve to attract skilled workers to these jobs at a time when the need for skilled domestic employees is greatly increasing.

The Committee took notice of the fact that careers for women have become increasingly common and that this occurrence is bound to lead to an increased demand for domestic help in the homes of employed wives and mothers. If an effective and dignified domestic workforce is to be developed, a living wage and respectable working conditions are vital. Now that Congress has sent to the States the constitutional amendment guaranteeing equal rights to women, it would be hypocritical in the extreme to deny an appreciable segment of the female work force, earning low wages, an opportunity to share in the rewards

of more meaningful employment under the protection of the Fair Labor Standards Act.

The Committee is persuaded that objections to covering domestics on the ground of administrative complexity and difficulty of enforcement are unacceptable reasons for denying the benefits of the Act to those most in need of such benefits. This committee is convinced that legislation which clearly expresses the intent of the Congress with respect to fair labor standards for domestics will be followed by voluntary compliance on the part of most housewives. The Committee is also confident that appropriate methods to ensure compliance can be fashioned within the authority of the Secretary of Labor under the FLSA. It is also to be noted that the Social Security law already covers most domestic workers. Finally, the Committee calls attention to the provisions of the law and the Secretary of Labor's regulations which credit the employer with the reasonable value of board and lodging furnished to an employee, and which recognize any reasonable agreement between the employer and the employee with respect to what shall be considered hours worked. These provisions, coupled with the provision for an overtime exemption, as provided in the bill, will serve to minimize any problems which might arise in the application of the law to live-in domestics.

The Committee concurs with the philosophy expressed by Elizabeth Duncan Koontz, Director of the Women's Bureau of the Department of Labor when she said in a speech in Anaheim, California on Nov. 9, 1970 that household employment "needs a decent wage level, good working conditions, and fringe benefits." She emphasized that "First in importance is coverage under minimum wage laws."

The additional question of the constitutionality of coverage of domestics was raised. The Committee found that domestics and the equipment that they use in their work are in interstate commerce. For example, vacuum cleaners are produced in only six States, and laundry equipment is produced in only seven States, creating a tremendous flow in commerce of these items used daily by domestics. Also, it is common knowledge that every domestic handles such items as soap, wax, and other household cleaners which have moved in interstate commerce (cf. *Shultz* v. *Travis-Edwards, Inc.*, 64 CCH Labor Cases, para. 32, 412, 19 Wage Hour Cases, 806 (W. D. Louisiana, 1970); *Shultz* v. *The Wilson Building, Inc.*, 63 CCH Labor Cases, para. 32, 383, 19 Wage Hour Cases, 679 (S.D. Texas, 1970). In addition, employment of domestics in households frees time for the members of the household to themselves engage in activities in interstate commerce. In short, the committee is persuaded that coverage of domestic employees is a vital step in the direction of ensuring that all workers affecting interstate commerce are protected by the Fair Labor Standards Act.

There can be little doubt that the low wages now paid to domestics as a group have a substantial effect on the economy and the fiscal and tax policies of both the Federal Government and the State. According to estimates of the Department of Labor, the minimum wage rates proposed for domestics in the Committee bill will place in the hands of these low-income employees an additional $1.3 billion in each of the next 3 years. That will represent a substantial increase in purchasing

power which is bound to have salutary effects on the national economy, as well as the economy of our central cities, where many domestic employees live. Furthermore, this additional income will serve to lessen welfare payments to this category of employees, and should also serve to upgrade the status and dignity of this type of work.

Over and above the direct impact on interstate commerce which results from the low wages received by this large group of employees there can be little doubt that the deplorably low wages received by domestics contribute substantially to the vicious poverty cycle which has created such chaos in our central cities.

Our inability to end poverty in America has already had a pervasive impact on the population characteristics of our cities, and this in turn has already resulted in profound changes in commercial, economic, social and educational patterns throughout the country. These changes, and the problems they have created, are not localized, and their solution demands Federal, not merely local action, as Congress has already recognized in enacting a myriad of programs dealing with such matters as housing, welfare, education, transportation, manpower training and public service employment.

Since domestic employment is one of the prime sources of jobs for poor and unskilled workers, it is clear that there is an important national interest at stake in insuring that the wages received for such work do not fall below a minimal standard of decency.

In this vein, the Committee took note of the expanded use of the interstate commerce clause by the Supreme Court in numerous recent cases (particularly *Katzenbach* v. *McClung*, 379 U.S. 294 (1964)) to accord Federal protection to persons needing such protection. The Committee rejected an amendment to strike coverage of domestic employees by a vote of 13–3, recognizing that domestic workers in households are in need of this Federal protection. Connections with the flow of commerce are both tangible and direct, proving a rational basis for finding the requisite link to interstate commerce.

Federal, State and Local Government Employment

Most employees of Federal, State and local governments are not now protected by the Fair Labor Standards Act. S. 1861 would extend minimum wage and overtime protection to almost five million nonsupervisory employees in the public sector. Currently, 3.3 million government employees are covered by the Act, including wage board employees of the Federal Government, and employees of schools and hospitals.

The Committee bill sets a minimum wage for presently covered Federal employees (except in the Canal Zone) at $2.00 an hour on the effective date, and provides for an increase in the minimum to $2.20 at the end of one year. For Federal employees newly covered by the proposed 1972 amendments, for Canal Zone employees, and for employees of State and local governments, whether currently covered or newly covered, the bill applies a $1.80 rate on the effective date and provides for increases to $2.00 at the end of one year, and $2.20 at the end of the second year.

The bill includes a special overtime standard for law enforcement and fire protection employees including security personnel in correc-

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tional institutions. For such workers, if there is an agreement or understanding with their employers the bill provides for a standard work period of 28 days instead of the basic standard of a 7-day week for purposes of determining overtime compensation. Time and one-half the regular rate of pay is required for all hours over 192 in the 28-day period during the first year; over 184, during the second year; over 176, during the third year; over 168, during the fourth year; and over 160 hours at the beginning of the fifth year and thereafter.

Coverage of Federal employees is limited by the bill to those in the competitive service (including wage board employees) non-appropriated fund employees, and any other civilian employees working for the armed services. Excluded from coverage are military personnel and employees in non-competitive positions. Basically, the Committee did not intend to extend FLSA coverage to those persons for whom the general tangible rewards of government employment are of secondary significance, for example, Peace Corps and VISTA volunteers. By the same token, the Committee intended to cover all employees in the competitive service (except professional, executive, and administrative personnel who are exempted under section 13 of the law) in all civilian branches of the Federal Government.

The Committee bill also covers all employees of State and local governments who hold positions comparable to those in covered Federal employment.

Many arguments have been advanced for bringing public employees under the FLSA. A major argument was and continues to be a moral one. Government should be willing to apply to itself any standard it deems necessary to apply to private employment. The Senate by an overwhelming majority has only this session applied this principle to equal employment opportunity. The need for government workers for minimum wage and overtime protection is as great as is the need of employees in private industry. It is unfair to deny employees in either the public or private sector a wage sufficient to ensure a "minimum standard of living necessary for health, efficiency and general well-being." Equity demands that a worker should not be asked to work for subminimum wages in order to subsidize his employer, whether that employer is engaged in private business or in government business.

In 1966, the Congress asserted, and the Supreme Court subsequently sustained, that government business could "constitute an unfair method of competition in commerce," and such unfair competition must be eliminated if the basic purpose of the FLSA was to be achieved. The 1966 amendments broadened the Act to extend coverage to, among others, employees of hospitals, schools and certain other institutions run by States and local governments. These amendments marked the first departure from the exemption for State and local governments included in the Act when it was passed in 1938. This extension of coverage was upheld in *Maryland* v. *Wirtz*, 392 U.S. 183 (1967). Since that time, the Congress has enacted the Economic Stabilization Amendments of 1971 which have been applied to State and local government employment, placing a ceiling on wage increases for such employees. Certainly, Congress may place a floor on the wages of such employees.

The Committee bill reflects a determination that all State and local governments should be treated as "enterprises" for the purpose of the

Act. A clear showing has been made that activities of States and local governments affect the stream of interstate commerce.

The Supreme Court in *Wirtz* held that the plenary authority of Congress to regulate interstate commeree is not to be limited by State sovereignty. In this case, whieh upheld the partial removal of the exemption of State and local governments from the Fair Labor Standards Act, the Court held that these units of government could be treated as enterprises for purposes of the Fair Labor Standards Act and that:

> If a State is engaging in economie aetivities that are validly regulated by the Federal Government when engaged in by private persons, the State too may be forced to conform its activities to Federal regulation. (*Id.* at p. 197).

The partial removal of the State and local government exemption is a eonstitutional exereise of congressional authority to regulate commerce. The Committee was persuaded that removal of the exemption was a logical extension of this sanctioned congressional authority.

In January 1971, Secretary of Labor Hodgson submitted to the Congress a special report on Nonsupervisory Employees in State and Local Governments—which was designed to serve as a basis for evaluating the feasibility of extending the Aet to additional employees in the publie seetor. This study was a follow-up of 1969 studies whieh evalnated the effeets of extending the Act to sehools and hospitals.

In 1970, when reporting on the studies of sehools and hospitals, Secretary of Labor Shultz coneluded:

> Overall it can be stated that the edueational and hospital sectors have had little evident difficulty adjusting to the minimum wages established by the 1966 amendment.

In 1971, Seeretary of Labor Hodgson's report states in the opening seetion:

> An issne associated with the question of extending eoverage under the Fair Labor Standards Act to all State and local governments is whether the non-eovered seetor should be brought under coverage at a lower minimum wage and a higher hours standard than those which are applieable to government hospitals and public schools, segments whieh were covered by the 1966 Amendments to the FLSA. The nationwide survey of State and local governments (exeluding education and hospital institutions) indicates that wage levels for State and local government employees not eovered by the FLSA are, on the average, substantially higher than those of workers already eovered. Hence, if coverage under the FLSA is extended to these workers, eomparable minimum wage and overtime standards would not have as great an impact as did the earlier extension of FLSA eoverage to employees of State and local government sehools, hospitals and residential care establishments.

The 1971 report of the Department of Labor presents data which show that a minimum wage of $2.00 an hour for noneovered employees of state and local governments would have required an inerease in the

total wage bill of only 1.1 percent in March 1970, the date of the survey. Increases in wages since that time have reduced the cost so that present estimates indicate that S. 1861 would require an increase in the wage bill for those workers of only .3 of one percent on the effective date when a minimum wage of $1.80 an hour applies and that subsequent annual increases of only .2 of one percent will be required to raise the minimum to $2.00 and then to $2.20 an hour.

In developing special overtime standards for law enforcement and fire protection employees and in providing for a very gradual reduction in the straight-time workweek for these employees, the Committee again took its lead from the Department of Labor. The 1971 report, previously referred to, states with respect to "hours worked," that:

> Long workweeks were most prevalent among employees in the public safety activity, which includes police and fire departments. A fifth of the public safety employees worked over 40-hours and they comprised half of the employees on long workweeks. Public works was also significant in this regard, employing 27 percent of the workers on long workweeks.
>
> During the survey week, only 2.3 percent of total nonsupervisory man-hours in State and local governments represented hours worked in excess of 40. If a 40-hour Federal overtime standard were in effect at the time of the survey, the premium pay required for excess hours would have approximated 1 percent of the weekly wage bill. The actual impact of a 40-hour standard would have been less because a substantial proportion of the employees receive premium overtime pay.

FARMS

The Fair Labor Standards Act currently provides that the minimum wage provisions of the Act apply to employees employed in agriculture by employers who used more than 500 man-days of hired labor during any calendar quarter of the preceding year. A man-day of agricultural labor is defined as "any day during which an employee performs any agricultural labor for not less than one hour." Presently exempt from the minimum wage provisions and excluded from the count for purposes of the man-day test (on large farms) is any employee employed in agriculture—

> (1) if such employee is the parent, spouse, child or other member of the employer's immediate family; or
>
> (2) if such employee—
>
> (*a*) is a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been paid on a piece rate basis in the region of employment,
>
> (*b*) commutes daily from his permanent residence to the farm on which he is employed, and
>
> (*c*) has been employed in agriculture less than 13 weeks during the preceding calendar year.

Also exempt under present law from the minimum wage requirement, but included in the man-day count, is any employee employed in agriculture—

(1) if such employee—

(*a*) is a migrant 16 years of age and under and is employed as a hand harvest laborer, is paid on a piece rate basis in an operation which has been and is customarily and generally recognized as having been paid on a piece rate basis in the region of employment.

(*b*) is employed on the same farm as his parent or person standing in place of his parent, and

(*c*) is paid at the same piece rate as employees over age 16 are paid on the same farm; or

(2) if such employee is principally engaged in the range production of livestock.

The Committee bill retains the basic provisions of the Act with respect to agriculture, including the 500 man-day test for purposes of determining which farms are covered under the minimum wage provisions of the Act and the overtime exemption for agricultural workers in section 13(b)(12) of the Act. However, the bill redefines a man-day of hired labor to include local seasonal hand harvest labor and extends minimum wage protection to such labor.

The Committee bill also extends minimum wage coverage to a specific small class of farmworkers—the local seasonal hand harvest laborer, and requires days worked by such farmworkers to be counted in determining whether the farmer meets the 500 man-day test for coverage under the Act. This change will bring an estimated 75,000–150,000 additional farmworkers under the Act and some additional farms within coverage. Approximately 90 percent of the Nation's farms will remain uncovered.

The Committee has heard no evidence which would justify continuing to exclude local seasonal hand harvest labor from the minimum wage benefits of the Fair Labor Standards Act. These workers work alongside of other farm hands who are guaranteed at least a minimum wage. They are paid less only because they are hired at peak periods for relatively short duration. This violates a fundamental principal of equal pay for equal work.

By its action the Committee bill eliminates the extremely complicated coverage standards that heretofore have caused hardships to farmworkers, and have made it difficult for farmers and farmworkers to determine whether coverge existed under the law. The 1966 law, as applied to agriculture, made enforcement difficult. The result has been a frustration of Congressional intent. As a consequence of the violations of the law, many poor farmworkers continue to be cheated of even a subsistence wage. The streamlining and clarification of the agricultural coverage language should eliminate the violations stemming from any possible confusion over statutory construction.

The Committee noted the concern of those who feared a massive increase in agricultural unemployment would result from advances to parity. However, the Committee was favorably impressed by a 1968 Labor Department study of agricultural coverage under the Act. The study showed that although farm employment continued its decline, "the decline was far greater on noncovered farms than on covered farms."

The Committee was distressed to learn that one migrant family traveled throughout the summer from its home in Texas to Wisconsin,

Minnesota, back to Wisconsin and then home to Texas, receiving for its labor during the entire summer, a family income of $1400. Upon further investigation the Committee was appalled to learn that the entire five member family—including a 6 year old child—worked 15 hours per day, 7 days a week. The Committee calculated each individual's wage rate to be approximately $.23 an hour.

It is the Committee's understanding, based on information furnished by the Department of Labor, that during fiscal year 1971, investigations were made of 692 farm establishments (employers using more than 500 man-days of farm labor in any calendar quarter). Based upon those 692 investgiations, the Department found that 6263 employees had been underpaid, 5487 of whom received less than the statutory Federal minimum wage of $1.30 an hour.

The Committee finds this rate of noncompliance intolerable. This situation is further aggravated by the fact that many of these farm employees are minor children. This shameful exploitation of agricultural labor in violation of the basic purpose of the Act will cease only when the Department of Labor conducts a searching campaign to bring all farm employers into compliance. The Committee expects the Department of Labor to be vigilant in its responsibilities with regard to enforcement of the agricultural provisions of the Act, and to undertake a vigorous enforcement effort so that the sight of a family, including a 6 year old child earning $.23 an hour in the fields will be a thing of the past.

CHILD LABOR IN AGRICULTURE

S. 1861 amends the Fair Labor Standards Act to prohibit the employment of children under age 12 in agriculture except on farms owned or operated by their parents. Children aged 12 and 13 may work in agriculture, only if they have the written consent of their parents or persons standing in place of their parents or if a parent or a person standing in for the parent is employed on the same farm.

S. 1861 continues current law in permitting the employment of children between the ages of 12 and 16 on farms outside of school hours, except in hazardous occupations.

In 1938, this Nation finally outlawed a practice which had become a national scandal—industrial child labor—yet today we continue to tolerate all of the same oppressive practices which deprive a child of a real childhood in an equally oppressive form—agricultural child labor. The shameful employment of children in agriculture is one of the most abhorrent aspects of our present farm labor situation. While it may be true—as many claim—that farm work can be beneficial to the young under careful supervision, more often it exposes young people to serious hazards—and involves long hours, negligible pay and backbreaking work.

The child labor provisions of the Fair Labor Standards Act establish a minimum age of 16 for agricultural employment. However the restrictions apply only during the hours schools are in session in the school district where the child lives while he is employed. Migratory children, who comprise a major segment of those children employed in agriculture, are most seriously affected by the lack of a meaningful child labor law. In many cases, migrant children are not covered by

State compulsory education laws since they are nonresidents of the States in which they are employed. As long as school is not in session where the child lives while he is employed, there are no restrictions on his employment in agriculture. There are no federal regulations as to the number of hours a child may work in agriculture. A 1970 study by the American Friends Service Committee found that children receiving pay ranging from a small pittance for some piece-work—such as 12 cents a crate for strawberries—to an average hourly wage of $1.12 in California.

According to a special survey conducted by the Department of Labor in 1962, in the Willamette and Tuatation valleys and the Hood River area in Oregon's strawberry region, at the peak of the harvest season, there were 66,610 workers employed; 65 percent (44,339) of whom were under age 14, and 19 percent (12,000) were under age 12. The Friends Committee found that in 1970, 75 percent of the seasonal force of strawberry and bean harvesters in the Willamette valley were children.

Although it should be intolerable for a major industry to depend upon child labor, in many cases child labor in agriculture is encouraged. Poorer families are encouraged to have their young children pick crops due to the welfare system. In Marion County, Oregon, for example, only income from family members over age 16 is deducted from a family's welfare grant. Thus the more family members under age 16 who work in the fields, the more money it can keep.

The desperate need to extend the protection of the child labor laws to agriculture was recognized as early as 1961 when the Senate enacted a measure similar to the pending Committee provision. Again in 1963 the Senate passed similar child labor in agriculture legislation. In filing suppplemental views to the Fair Labor Standards Amendments of 1966, Senators Javits and Williams noted:

> We ought not to look away now from the exploitation of children in agriculture—with all its destructive effects—at the very time we propose to extend federal minimum wage protection to other deprived groups in our society.

The Committee strongly believes that there are too few restrictions on child labor on farms. Legislation must be enacted to protect children on farms. Such legislation must be vigorously enforced. Many of the horror stories which have been insufficiently publicized over the last few years involve fatal or near fatal accidents involving very young children. Typically these accident statistics are tabulated and the totals tend to obscure rather than disclose such tragedies as the 8-year old boy suffocated when he was sucked into and buried under two feet of grain in a wheat bin while helping his cousins load wheat, or the 13-year old boy who lost his left arm just below the shoulder in a potato harvester.

The rationale that led to the prohibition on industrial child labor in 1938 is no less compelling now when applied to agricultural labor. The sight of children, many of whom have missed school, crawling in 100 degree heat for 10 hours a day to harvest crops at below subsistence wages, must be made a thing of the past.

It is the expectation of Committee members that the new agricultural child labor provisions of S. 1861 will be strictly and widely en-

forced and that young children will be in school where they belong and not working on farms.

CIVIL PENALTY FOR CHILD LABOR VIOLATIONS

S. 1861 adds a new subsection to Section 16 of the Fair Labor Standards Act. This new subsection makes any person who violates the child labor provisions of the act or any regulation issued under that section subject to a civil penalty not to exceed $1,000 for each such violation.

This provision, when enforced under the Secretary of Labor's FLSA enforcement authority, is designed to add teeth to the child labor provisions of the statute and to make it abundantly clear that child labor violations are particularly abhorrent to a large cross-section of the population. The Committee chose this vehicle to emphasize the critical importance of strict enforcement of the child labor provisions of the Act.

PROOF OF AGE REQUIREMENT FOR CHILDREN

S. 1861 adds a new subsection to Section 12 of the Act authorizing the Secretary of Labor to issue regulations requiring employers to obtain from any young worker proof of his age in order to carry out the objectives of the child labor provisions of the Act.

This is designed to serve as a protective tool for employers who frequently find that they have unintentionally violated the child labor provisions of the Act. It will also protect the minor from illegal employment.

The Committee does not believe that this provision presents any conflict with the provisions of the Age Discrimination in Employment Act.

PUERTO RICO AND THE VIRGIN ISLANDS

The bill provides for the gradual achievement of minimum wage parity for workers in Puerto Rico and the Virgin Islands with workers on the mainland.

The minimum wage for certain hotel, motel, restaurant and food-service employees, as well as government workers, will be the same as the minimum wage for counterpart mainland employees on the effective date.

The minimum wage for employees who are covered by industry committee wage order rates of less than $.80 an hour is raised to $1.00 on the effective date and then is increased by $.20 an hour each year until parity with the mainland is reached.

The minimum wage for employees who are covered by a minimum wage order rate of $.80 an hour or more is raised by $.20 on the effective date, and by $.20 each year thereafter until parity with the mainland is achieved.

Employees in Puerto Rico and the Virgin Islands newly covered by this Act will have their minimum rates determined by newly appointed special industry committees. The recommendations of such committees will be issued within 60 days of the effective date of the Fair Labor Standards Amendments of 1972 and shall be effective on the effective date of the wage order but not before 60 days after the effective date

of the proposed 1972 Amendments. No rate below $1.60 may be set unless there is substantial documentary evidence covering a period of years which establishes that the industry is unable to pay the wages. The Committee calls attention to Section 6(c)(1) of the FLSA which provides that the rates provided for in Sections 6(a) and 6(b) shall be superseded only insofar as a wage order has been issued by the Secretary, pursuant to the recommendations of an industry committee.

In no event may an industry committee establish a rate lower than $1.00 for such newly covered employees.

For agricultural workers in Puerto Rico whose incomes are supplemented under Puerto Rican guaranteed income legislation, the bill provides for an immediate 20 cents an hour increase over their current wage order rate as supplemented under this legislation. Thus, their wage rate would be $1.20 an hour during the first year from the effective date. The Committee understands that it is the intention of the government of the Commonwealth to change the guaranteed income program in order to assure a continued subsidy at present levels to farmers notwithstanding the wage increases proposed by this bill. After the initial rates are set, increases of $.20 per year are automatically applied until the mainland rates are achieved. In each of the categories where annual step-ups of $.20 are prescribed, special industry committees are authorized to raise rates by more than the $.20 per hour but not by less than that amount. The bill would terminate the so-called special review committees whose functions have heretofore been to reduce increases in the minimum rates prescribed by Congress.

Provisions permitting the setting of lower rates by industry committee in Puerto Rico and the Virgin Islands were incorporated into the FLSA in June 1940, almost 32 years ago. However, from the outset a clear intent has been manifest in the FLSA to achieve ultimate parity. Section 8(a) of the Act sets forth this policy:

> The policy of this Act with respect to industries or enterprises in Puerto Rico and the Virgin Islands engaged in commerce or in the production of goods for commerce is to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed in paragraph (1) of Section 6(a) in each such industry.

In the course of various evaluations of the industry committee procedures, questions have been raised as to whether a need still exists for such special industry committee action. The procedure has been criticized as time-consuming, costly and unfair to mainland employers. Opponents of the present procedure have also noted how little progress has been made in raising the wage floor in some industries, despite improved economic conditions, and substantial increases in productivity.

The Committee was persuaded to provide for eventual parity for a wide variety of reasons. Consideration was given to the fact that the cost-of-living is higher on the Islands than on the mainland. For example, the Consumer Price Index (1957–1959=100) for all items in 1971 was 144.2 in Puerto Rico and 141.0 on the mainland. Moreover, the index of food prices was 160.3 in Puerto Rico as compared with 136.4 on the mainland; the index of transportation prices was 142.4 in Puerto Rico versus 137.5 on the mainland. And for personal care,

the Puerto Rican index was 153.2 as compared with 134.9 on the mainland. In addition, profit margins of establishments are usually greater than for their national counterparts, and employers enjoy special advantages, such as exemption from Federal income taxes, subsidies, and exemption from local income taxes for a period of from 10 to 17 years, depending on location.

The schedule for achieving parity, as set forth in the bill, makes it possible for employers to make long-range plans for adjusting to the scheduled wage changes. The increase in wage order rates of $.20 on the effective date (for most activities) on the Islands is equal to the increase in the mainland for new coverage areas but is only half as great as the increase set for pre-1966 coverage. It is recognized that many of the employers in Puerto Rico and the Virgin Islands who have been covered by the FLSA since its inception could adjust to a $0.40 minimum wage increase on the effective date with ease. However, a more modest increase was decided upon to insure that the increases would proceed smoothly and that substandard wages would be eliminated by a predetermined target date.

The Committee was impressed by the extensive financial and tax incentives designed to attract business to Puerto Rico. In A National Profile of Puerto Rico (March 1971), Ernst and Ernst describe in detail the various benefits to business of locating in Puerto Rico ranging from "100 percent exemption from income tax on industrial development income for qualified firms" to such special location incentives for operations in areas outside of metropolitan San Juan, as offsets for costs of training, salaries, rents and mortgages. The Committee compared the advantages designed to attract business to Puerto Rico with wage data in the summary on labor, in Ernst and Ernst. In this summary, the average hourly wage in 1969 for 20 industry groups in Puerto Rico is shown at $1.82. The comparable figure for the mainland is given as $3.10. The Committee's intent is to improve the status of the Puerto Rican worker; parity with mainland workers with respect to the minimum wage is a necessary first step.

EXEMPTIONS

S. 1861 repeals or modifies a number of the exemptions presently incorporated in the Fair Labor Standards Act, including some of the complete minimum wage and overtime exemptions as well as some which apply only to the overtime standard.

The FLSA is a complex piece of social legislation. In large part the complexity of the law is an outgrowth of compromises entered into over a 30-year period in order to achieve, to the fullest extent possible, the basic purposes of the Act.

Careful review led the Committee to conclude that a number of the exemptions presently incorporated into the Act should now be eliminated. The Committee accepts as simple equity the basic concept that all workers are entitled to a meaningful minimum wage and to premium pay for overtime work. The Committee generally approached the matter of special exemptions by applying a simple rule. Unless the proponents of an exemption made the case for continuing the exemption in its present form, it was modified or removed. The Committee is aware that the low-wage worker, whose economic status is in large

part determined by the FLSA, does not typically communicate with the Congress either by testifying on bills or by writing letters outlining his position on the legislation. As in the past, the Congress must represent the public conscience in the matter of the low-wage workers and minimum wage legislation.

Motion picture theaters

S. 1861 repeals the minimum wage and overtime exemption currently available for all employees of motion picture theaters. Approximately 68,000 workers are currently denied the protection of the FLSA because of this blanket exemption.

A 1966 study of motion picture theaters by the Department of Labor disclosed the prevalence of extremely low wages in the industry. While motion picture projectionists were paid well above the minimum wage, most employees were paid substandard wages. Concession attendants, cashiers, ushers, and janitors were paid well below the minimum wage.

In 1961, when motion picture theaters received a special minimum wage and overtime exemption by carrying out a segment of the retail and service coverage, the poor economic condition of the industry was cited by industry representatives as a major reason for the exclusion.

This argument was repeated in 1966 when the Congress was considering amendments to the FLSA which would have eliminated this exemption. Industry representatives argued against removing the exemption on the basis that increased labor costs could not be passed on to consumers in the form of higher admission prices by motion picture theaters because of the depressed state of the industry.

However, the validity of this argument is now open to serious challenge. Price data published by the Bureau of Labor Statistics of the Department of Labor indicates that indoor movie admissions have increased by 39 percent between 1967 and the beginning of 1972. Admissions in drive-in movies have been raised even more—43 percent since 1967. These increases are far in excess of price increases for products of covered industries and for almost all services covered by the Act.

The Congress has long recognized the need for minimum wage and overtime protection for employees in motion picture theaters. Conditions in the industry and the present price structure indicate that removal of this exemption would bring substantial benefits to low-wage workers and could be easily absorbed by the industry. Furthermore, the usual hours of business in this industry suggest that it can adapt to the overtime standard with relative ease.

In short, the case has not been made for continuance of this exemption.

Small logging crews

The Committee bill removes the minimum wage exemption currently available to forestry and lumbering operations, with 8 or fewer employees but retains an overtime exemption for such lumbering operations.

Prior to the 1966 amendments, the exemption applied to employers with 12 or fewer employees. In enacting the 1966 amendments the Congress reduced the 12-man test to an 8-man test and the House Committee report commented on the change as follows:

> The decision on eight employees was made after careful consideration and investigation of conflicting facts. The Committee believes the eight-man criterion to be a sound basis for exemption at the present time, but intends to further investigate these logging operations.

According to the Department of Labor, about 45,000 employees are currently exempt under this provision. Many of these workers are paid very low wages and are, in effect, being asked to subsidize their employers.

The Committee found no adverse effect when minimum wage and overtime protection was extended to employers with 8–12 workers. However, employees of such loggers did benefit significantly from the protection of the FLSA. The Committee is persuaded that all logging employees should enjoy the minimum wage protection of the Act, and that this can be accomplished with ease at this time. The Committee was not satisfied that a case had been made for a continued minimum wage exemption. The Committee considered removing the complete minimum wage and overtime exemption but elected to retain the overtime exemption at this time. This continues the gradual approach to full coverage which has been applied to this industry.

The Committee considered the recordkeeping problems raised by the industry but concluded that current Department of Labor regulations on this point offered sufficient flexibility to meet the legitimate needs of this industry. The Committee noted in this regard that small loggers have been able to keep tax records and complex piece-rate records for some time.

Shade-grown tobacco

S. 1861 would remove the special minimum wage and overtime exemption available to employers engaged in the processing of shade grown tobacco prior to the stemming process for use as cigar wrapper tobacco.

Prior to the *Mitchell* v. *Budd*, 350 U.S. 473 (1956) decision, it had been held that the processing of shade-grown tobacco was a continuation of the agricultural process and hence came within the scope of the term "Agriculture." However, the U.S. Supreme Court ruled that workers engaged in processing leaf tobacco for cigar wrappers after delivery of the tobacco to bulking plants were not engaged in agriculture and were not exempt as agricultural employees, regardless of whether (1) the plants were operated exclusively for the processing of the tobacco grown by the operators, or (2) the employees who worked on the farms where the tobacco was grown also worked in the plants processing the tobacco. The Supreme Court decision laid particular emphasis on the fact that the processing operations substantially change the natural state of the leaf tobacco and that the farmers who grow the tobacco do not ordinarily perform the processing. Typically, this work is done in bulking plants.

The 1961 amendments to the FLSA provided a special exemption for processing shade-grown tobacco, thus negating the decision of the Supreme Court.

The Committee bill removes the special exemption because it has created a situation in which a tobacco processing employee who would otherwise enjoy the protection of the FLSA, loses such protection solely

because he had previously worked in the fields where the tobacco was grown; co-workers who had not worked in the field enjoy "fair labor standards." In this regard, it should be noted that the Committee retained the overtime exemption for agricultural field-workers. Thus field work performed in connection with the shade-grown tobacco industry will continue to operate with an overtime exemption and the student certification program under section 14 of the Act will still be applicable.

Agricultural processing industries

The Fair Labor Standards Act currently provides a 14-week partial overtime exemption for agricultural handling and processing industries which have been found by the Secretary of Labor to be of a seasonal nature or characterized by marked annually recurring seasonal peaks of operation, at places of first marketing or first processing of agricultural or horticultural commodities from farms within the meaning of section 7(c) or section 7(d) of the Act. If both sections 7(c) and 7(d) apply, the exemption period is limited to 20 workweeks, 10 weeks under each exemption. The exemptions are "partial" in that they are for limited periods of time and during these exempt periods, employees must be paid not less than one and one-half times their regular rate of pay for hours in excess of 10 a day and in excess of 50 or 48 a week, depending on the basis for the exemption.

S. 1861 eliminates these overtime exemptions. This action was forecast in the Conference Report on the 1966 amendments to the FLSA. The report states with respect to the agricultural processing industries:

> It was the declared intention of the conferees to give notice that the days of overtime exemptions for employees in the agricultural processing industry are rapidly drawing to a close, because advances in technology are making the continuation of such exemption unjustifiable.

Subsequently the Department of Labor conducted a two-part study designed

> "to provide information on the need for the partial overtime exemptions available to agricultural processing industries under section 7(c) and/or section 7(d) of the Fair Labor Standards Act . . .
>
> The first part of the Study included eight agricultural processing industries that qualify for 14 weeks of partial overtime exemption either under section 7(c) or section 7(d) of the Act. . . .
>
> The second part of the study included the major agricultural processing industries that qualify for 20 weeks of partial overtime exemption—10 weeks under section 7(c) and 10 weeks under section 7(d) . . .

Secretary of Labor Shultz, in his Report to the Ninety-first Congress in January 1970 on Minimum Wage and Maximum Hours Standards under the FLSA, stated:

> The study of overtime exemptions available to the agricultural handling and processing industries indicates the need for re-appraising the favored position which has long been

given these industries through exemption from the 40-hour maximum workweek standard. It is my recommendation that the exemptions currently available under section 7(c); 7(d); 13(b) (14), (15) and (16) be phased out.

The detailed survey which accompanied the Secretary's report outlined various reasons for this recommendation. Among these were the following:

(1) Existing exemptions are not fully utilized.

(2) Many processing establishments are now paying premium rates for hours over 40 a week.

(3) Currently, some industries which qualify for 20 weeks of exemption are less seasonal than others which qualify for 14 weeks.

(4) A 40-hour basic straight-time standard would eliminate inequities which currently exist between employers who now pay premium overtime rates either because they elect to do so voluntarily or because they are covered by a collective bargaining agreement and employers who avail themselves of the overtime exemption.

(5) Additional jobs could be created by second- and third-shift operations in those industries where large shipments of raw materials are received in relatively short periods.

(6) Technological advances in recent years have lengthened the storage life of perishable products.

(7) Grower-processor contracts permit the processor to specify the time for planting, harvesting and delivery, and thus make possible better work-scheduling.

While all of these findings were important to the Committee in its deliberations, two items were of paramount significance. The first was that there has been a sharp reduction in overtime hours during the periods when exemptions were likely to be claimed. The second was the ease with which the processing industries adjusted to the partial cut-backs in overtime exemptions which were made in the 1966 amendments to the Act. Claims of adverse effects advanced during the 1966 deliberations just did not materialize. There is every indication that the industry can now make a similar adjustment to the removal of these special exemptions.

Although the Committee did not remove the 13(b)(14) and 13(b)(16) overtime exemptions for country elevators and transportation of fruits and vegetables, it was recognized that the same considerations which had resulted in the removal of the other agricultural processing exemptions could have been applied to the 13(b)(14) and 13(b)(16) exemptions. The Committee chose to retain these exemptions at this time, but clear evidence of necessity will have to be presented if these exemptions are to be retained in the future.

Railroad and pipelines

The Fair Labor Standards Act currently exempts from the overtime provisions of the Act any employee of an employer subject to the provisions of Part I of the Interstate Commerce Act.

Part I of the Interstate Commerce Act pertains to railroad employees and employees of oil pipeline transportation companies.

The Committee bill would retain the overtime exemption for railroad employees but would remove the overtime exemption for employees of oil pipelines.

The Committee, in reviewing the historical basis for this exemption found that there was no testimony with respect to oil pipeline transportation companies.

This industry was apparently exempted because it is covered along with railroads under part I of the Interstate Commerce Act and a case had been made for exempting railroad employees.

The Committee has concluded that there is no basis for continuing to provide an overtime exemption for employees of oil pipelines. Employees of gas pipelines are now covered by the overtime provisions of the FLSA. The action of the Committee eliminates a long-time competitive inequity between oil pipelines and gas pipelines.

Seafood processing

S. 1861 repeals the overtime exemption currently available in Section 13(b)(4) for "any employee employed in the processing, marketing, freezing, curing, storing, packing for shipment, or distributing of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any product thereof."

The Fair Labor Standards Act as originally enacted provided an exemption under Section 13(a)(5) for:

"Any employee employed in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including the going to and returning from work and including employment in the loading, unloading, or packing of such products for shipment or in propagating, processing, marketing, freezing, canning, curing, storing, or distributing the above products or byproducts thereof."

The 1949 amendments retained the complete exemption for fishing and processing, except canning. The minimum wage exemption for canning was eliminated, but the overtime exemption was retained under a new Section 13(b)(4).

The 1961 amendments removed the minimum wage exemption for employees employed in "onshore" operations, such as processing, marketing, distributing and other fish-handling activities. The overtime exemption for "onshore" operations was retained by adding such operations to the exemption already provided for the canning of seafood under Section 13(b)(4).

Removal of the overtime exemption for seafood canning and processing is part of the Committee's effort to achieve parity under the law for all workers to the maximum extent possible at this time.

Local transit

Currently, the overtime provisions of the Fair Labor Standards Act do not apply with respect to any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban, or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway and carrier are subject to regulation by a State or local agency.

The Committee bill would eliminate this overtime exemption in three steps, except with respect to time spent in "charter activities" under

specified conditions. The hours of employment will not include hours spent in charter activities if—(1) the employee's employment in such activities was pursuant to an agreement or understanding with his employer arrived at before engaging in such employment, and (2) if employment in such activities is not part of such employee's regular employment. These conditions are set so as to emphasize that the Committee intends that hours spent in "charter activities" as a part of the regular workday or workweek are to be included in the definition of "hours worked" under the Act.

The Committee has been persuaded that the transit industry has been adjusting to a shorter workweek for some time now. Collective bargaining agreements typically call for overtime after 40 hours a week—and in many cases after 8 hours a day. A large segment of the industry is now covered by such contracts. In addition, an overtime standard was applied to nonoperating employees of the industry by the 1966 amendments. The Committee bill requires that employees be paid time-and-one-half their regular rate of pay for all hours over 48 per week, beginning with the effective date; after 44 hours, 1 year later; and after 40 hours at the end of the second year and thereafter. This gradual approach ensures ease of adjustment.

It is noted that by virtue of the Committee's action on coverage of State and local government employment, together with its action on overtime pay in the local transit industry, operating employees of publicly and privately owned transit companies will be treated identically.

A question was raised concerning the applicability of the overtime provisions of the Act in the case of certain collective bargaining agreements involving local transit in the New York area which provide for straight-time pay for certain off-duty hours. The Committee notes that section 7(c)(2) of the FLSA provides that "payments made for periods when no work is performed due to . . . failure of the employer to provide sufficient work . . . are not made as compensation for hours of employment." The Committee also notes that the Department of Labor's regulations concerning "Hours Worked" contain the following provision (29 C.F.R. 785.16(a)):

"OFF DUTY"

"(a) *General.* Periods during which an employee is completely relieved from duty and which are long enough to enable him to use the time effectively for his own purposes are not hours worked. He is not completely relieved from duty and cannot use the time effectively for his own purposes unless he is definitely told in advance that he may leave the job and that he will not have to commence work until a definitely specified hour has arrived. Whether the time is long enough to enable him to use the time effectively for his own purposes depends upon all of the facts and circumstances of the case."

Hotels, motels, and restaurants

S. 1861 eliminates the complete overtime exemption for employees employed by hotels, motels and restaurants and substitutes a limited overtime exemption. S. 1861 requires the payment of time and one-half the regular rate of pay for all hours over 48 in a week on the effective

date, and for hours after 46 in a week at the end of the first year and thereafter.

In setting an overtime standard for employees of hotels, motels and restaurants the Committee recognized that the length of workweeks have been declining in these activities. It is interesting to note that when minimum wage coverage was extended to these workers by the 1966 amendments, the Department of Labor reported to the Congress that there was a reduction in the prevalence of long workweeks in these industries, even though an overtime exemption was retained.

Tip allowance

S. 1861 modifies section 3(m) of the Fair Labor Standards Act by reducing the tip allowance against the minimum wage from 50 percent to 40 percent of the minimum wage, by requiring employer explanation to employees of the tip credit provisions, and by requiring that all tips received be paid out to tipped employees.

Currently, the law provides that an employer may determine the amount of tips received by a "tipped employee" and may credit that amount against the applicable minimum wage, but amount so credited may not exceed 50 percent of the minimum rate. Thus, a tip credit of up to $.80 an hour may currently be deducted from the minimum wage of a tipped employee. (A tipped employee is defined as an employee who customarily and regularly receives more than $20 a month in tips.)

The Committee was concerned with the entire problem of tips as wages and the concept of allowing tips to be counted as part of the minimum wage. The Committee reviewed the study of tips presented to the Congress by the Department of Labor in 1971. The Committee also examined provisions of State minimum wage laws which permit the counting of tips toward a minimum wage.

The Committee was impressed by the extent to which customer tips contributed to the earnings of some restaurant and hotel employees in March 1970 (the date of the Labor Department survey). After reviewing estimates of tips in this report, the Committee was persuaded that the tip allowance could not be eliminated at this time as proposed in S. 1861, but that it should be reduced.

The Labor Department study showed that about one-third of the tipped employees in hotels and motels and one-quarter of the tipped employees in restaurants received less than 80 cents an hour in tips. Also, the Committee found that in February 1971 not a single State which provided for a tip allowance against the minimum wage, allowed more than 80 cents per hour to be counted.

The 40-percent rule under S. 1861 would retain the 80 cents-allowance (88 cents when the minimum rate goes to $2.20) but does not expand the reliance on tips to supply the minimum wage.

The Committee tip credit provision is designed to insure employer responsibility for proper computation of the tip allowance and to make clear that the employer is responsible for informing the tipped employee of how his wage is calculated. Also the bill requires that the employer must explain the tip provision of the Act to the employee and that all tips received by tipped employees must be retained by tipped employees. This latter provision is not intended to discourage the practice of pooling tips or sharing tips with busboys and countermen, but rather to require that the total amount of tips received by all tipped employees be paid out to such tipped employees.

Nursing Homes

The Fair Labor Standards Act currently provides a partial overtime exemption for employees of nursing homes. The Act provides an overtime exemption for any employee of a nursing home who receives compensation for employment at time and one-half his regular rate of pay for all hours in excess of 48 in a week.

The Committee bill would reduce the straight time workweek to 46 hours one year after the effective date and to 44 hours a year later. This gradual reduction in the basic workweek should present no problem to the industry.

According to a 1969 report of the Department of Labor there had been a marked decline in average hours per week of nonsupervisory employees of nursing homes between April 1965 and October 1967. The report indicates that the application of a 48-hour workweek standard to nursing homes on February 1, 1967 had very little effect as only a small proportion of the workers worked over 48 hours a week even before the Act was extended to the industry. In April 1968, less than 15 percent of all nursing home employees worked over 44 hours in a week.

Salesmen, Partsmen, and Mechanics

S. 1861 repeals the overtime exemption currently available under section 13(b)(10) for partsmen and mechanics in nonmanufacturing establishments primarily engaged in selling or servicing automobiles, trailers or trucks, but retains the overtime exemption for salesmen in these establishments.

S. 1861 also repeals the overtime exemption for salesmen, partsmen and mechanics in nonmanufacturing establishments primarily engaged in selling or servicing aircraft.

S. 1861 retains the overtime exemption in Sec. 13(b)(10) for salesmen, partsmen, and mechanics in nonmanufacturing establishments primarily engaged in selling or servicing farm implements.

The Committee was persuaded that the application of an overtime standard to partsmen and mechanics in auto, truck and trailer dealerships, and to the presently exempt employees in aircraft dealerships would be likely to generate additional jobs, and to promote the training of workers to fill the job. If the industry continues to expand service hours, as recent trends indicate, the overtime penalty should provide considerable stimulus to the creation of new jobs at a time when our economy is experiencing high unemployment rates and the training necessary for meaningful employment in this industry is or should be readily available.

Cotton Ginning and Sugar Processing Workers

S. 1861 repeals the year-round overtime exemption for cotton ginning and sugar processing employees in section 13(b)(15) of the Fair Labor Standards Act, but retains the exemption for employees engaged in processing maple sap into maple syrup or sugar.

The 1970 Report of the Department of Labor on the Agricultural Handling and Processing Industries includes the recommendation of the Secretary of Labor that "consideration should be given to the phasing out of the overtime exemptions currently available to the agricultural handling and processing industries under section 7(c)

and 7(d) of the Fair Labor Standards Act. . . . . Although focusing primarily on sections 7(c) and 7(d) of the Act, the survey data also indicate that there is no sound basis for the continuation of the year-round exemptions available under sections 13(b) . . . . (15) of the Act. . . ."

The Committee is impressed by the various types of government protection enjoyed by employers in the cotton ginning and sugar processing industries. The Federal Government has reduced employer risks in these activities through subsidies. Federal controls, and quotas. Thus, the committee can find no justification for denying overtime protection to the employees in these industries, who are typically paid no more than the minimum wage, and who work extremely long hours.

Catering and Food Service Employees

S. 1861 phases out the complete overtime exemption for employees of retail and service establishments who are employed primarily in connection with the preparation or offering of food or beverages either on the premises or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs.

S. 1861 requires that catering and food service employees be paid time and one half their regular rate of pay, for hours over 48 per week on the effective date, for hours over 44, after 1 year, and for hours over 40, after the second year.

The elimination of the special exemption for food service employees in retail service establishments eliminates a disparity in work standards for employees of the same establishment. For example, food service employees in covered retail establishments are now exempt from the overtime provisions of the Act while retail clerks, in the same establishments, are covered by both the minimum wage and overtime standard. This has been a major source of friction.

It is expected that the gradual phasing out of the overtime exemption will eliminate excessively long hours in food service and catering activities and thus generate additional jobs. Also treatment of food service employees in this manner permits a similar phasing out of the overtime exemptions for bowling establishments, an exemption predicated in large part upon the food service aspects of such establishments.

Bowling Establishments

The Fair Labor Standards Act currently exempts from the overtime provisions of the Act any employee of a bowling establishment if such employee receives compensation for hours in excess of 48 in a workweek at time and one-half the employee's regular rate of pay.

The Committee bill would reduce the straight-time workweek to 44 hours, 1 year after the effective date and to 40 hours, 1 year later.

The Committee notes that bowling fees have advanced by 18 percent since 1967. At the same time, pinsetting machine technology has improved and automatic pinsetters have replaced hand pinsetters throughout the industry. Overtime coverage is easily compatible with the operative characteristics of the industry. The use of automatic pinsetters has eliminated problems which had previously resulted from daily hourly fluctuations in patronage.

Resident Employees of Apartment Buildings

S. 1861 adds a new overtime exemption to the Fair Labor Standards Act for any employee employed by an owner of an apartment building or by a management agent on behalf of the owner provided that (A) such employee resides in that apartment building and (B) the gross annual rentals of such building are less than the gross annual sales specified in Section 3(s) of this Act.

The Committee recognizes that the Department of Labor has issued regulations and interpretations regarding hours of work for employees residing on employer's premises. These state that an employee who resides on his employer's premises on a permanent basis or for extended period of time is not considered as working all the time while on the premises. The Department of Labor agrees that it is difficult under these circumstances to determine the exact hours worked and, therefore, accepts any reasonable agreement of the parties which takes into account all of the relevant facts.

The Committee, in enacting this overtime exemption, expects that this exemption will not encourage overtime work at straight-time rates. Rather, this exemption is designed to indicate that the Committee accepts as reasonable the present interpretation that "hours worked" for employees residing on employer's premises may be determined by the employer and employees.

Dry Cleaning Driver-Salesmen

The Committee bill creates a separate overtime exemption for wholesale dry cleaning driver-salesmen who customarily work irregular hours in performing services for establishments offering dry cleaning services to the public. In order to qualify for the exemption, more than one-half of such employee's annual compensation must represent commissions based on performing such services.

The Committee amendment involves only a small number of driver-salesmen in the wholesale dry cleaning business who provide the important linkage between the retail tailor shops and the large wholesale dry cleaning establishments. It should be emphasized, however, that the amendment provides for an overtime exemption only. The amendment is consistent with the exemption currently applied to outside salesmen generally. The Committee wishes to affirm its view that the amendment is designed to meet a unique situation concerning these particular outside driver-salesmen and should not be construed as a limitation on FLSA coverage of other laundry and dry cleaning employees.

House Parents for Orphans

S. 1861 provides a new overtime exemption for any employee who is employed with his spouse by a private nonprofit educational institution to serve as the parents of children—

A. Who are orphans or one of whose natural parents is deceased, and

B. Who are enrolled in such institution and reside in residential facilities of the institution, while such children are in residence at such institution, if such employee and his spouse reside in such facilities, receive without cost, board and lodging from such institution, and are together compensated, on a cash basis at an annual rate of not less than $10,000.

The Committee, in enacting this amendment, was primarily interested in insuring that couples who serve as house parents for orphans in educational institutions would be assured sufficient flexibility in work standards to protect the interest of the orphans during the periods when such orphans reside in such institutions.

The Milton Hershey School in Hershey, Pennsylvania is one such institution. The Hershey school is a residential vocational school for orphan boys. The students live in 103 separate cottages of 10 to 15 boys each. A married couple lives in each cottage, serving as houseparents to the boys therein. The Committee felt that imposition of overtime coverage in this very special employment situation would result in an especially difficult financial and recordkeeping situation for such institutions. Above all, this would impinge on the intimate child-parent relationship that these institutions seek to foster.

The Committee considered, but did not approve, a minimum wage as well as an overtime exemption for such employees. Thus these house parents are subject to the minimum wage provisions of the Act. It would appear that an employee and his spouse who serve as house parents of orphans in a nonprofit educational institution, who are paid not less than $10,000 a year in cash wages, and who receive without cost, board and lodging from such institutions would probably be found to be paid in compliance with the minimum wage requirements of the Act. However, the Committee wishes to reaffirm that these house parents are not so much hourly workers as they are substitute parents whose duties could occur at any time.

The Committee recognizes that the Labor Department has issued special rules for calculating "hours worked" for employees residing on employer's premises, including such house parents.

It is the Committee's understanding and intent that as to hours worked by such resident employees, the Labor Department will accept any reasonable agreement of the parties which takes into consideration all the pertinent facts surrounding such employment.

CHILD LABOR EXEMPTION FOR CERTAIN NEWSBOYS

Newspaper delivery boys are presently exempt from the child labor restrictions of the FLSA. Under regulations issued by the Labor Department, however, those newsboys who deliver daily papers are treated differently from those who deliver newspapers one or perhaps two days a week and deliver supplements (in the form of circulars or advertising materials published by the newspaper) on the remaining days. Under the present regulations, only newsboys delivering daily newspapers are considered eligible for the child labor exemption. Newsboys who deliver newspapers on other than a daily basis and deliver other printed materials such as shopping guides, handbills, or other type of advertising material on non-newspaper days lose the exemption.

In an effort to eliminate this inequity, the Committee bill includes an amendment extending the child labor exemption, though not the minimum wage and overtime exemptions, to newsboys who deliver shopping news advertising, and other similar supplements published by the newspaper, on non-newspaper days.

YOUTH AND FULL-TIME STUDENTS

The present Act contains a number of provisions which provide flexibility in the application of minimum wage rates to youth. Thus, under the present law:

1. Under special certificates, full-time students may be employed at 85 per cent of the applicable minimum wage in covered retail and service establishments and on covered farms.

2. No minimum wage or overtime standard applies to workers in seasonal recreational and amusement establishments. This is an industry which employs many young people and such employment continues to be outside the scope of the Fair Labor Standards Act.

3. For non-covered retail and service enterprises, no wage-hour standards apply.

4. In agriculture, youths 16 and under may be paid less than the applicable minimum hourly wage, provided that they are paid at the same piece rates as adults.

5. The Act continues to provide for a certification program for learners, apprentices, and messengers at less than the minimum wage pursuant to regulations issued by the Secretary of Labor.

This is not intended as an exhaustive list. It is designed to show the wide assortment of activities that will remain either outside the scope of the Act or for which student or learner rates are allowed under a certification procedure.

The Committee gave the most careful consideration to these provisions of the law, and to proposals to establish an across-the-board youth differential.

The Committee agreed to add educational institutions to those activities which are currently permitted to employ full-time students under special certificates issued pursuant to regulations of the Secretary of Labor at a rate not less than 85 percent of the applicable minimum wage, only after reviewing the entire situation with respect to youth unemployment and subminimum wages and afer rejecting by a vote of 13–4, a motion to amend the law to provide for a general youth differential.

The Act currently permits the employment of full-time students on a part-time basis (or full-time during vacations and holidays) in retail and service establishments and in agriculture under special certificates issued pursuant to regulations of the Secretary of Labor at a wage rate not less than 85 percent of the applicable minimum wage. These certificates are issued to the extent necessary in order to prevent curtailment of opportunities for employment.

Prior to the 1961 amendments to the Act, there were no provisions relating to the employment of full-time students at subminimum rates. In revising section 14 of the Act to include full-time students, the Congress sought, through the issuance of certificates, to provide an incentive for employers to hire students while providing assurances that adult workers would not be adversely affected.

This consideration was clearly spelled out in the report accompanying H.R. 3935 (H. Rept. No. 75, 87th Congress, 1st Session, March 13, 1961, p. 11):

> "The purpose of this provision is to provide employment opportunities for students who desire to work part-time outside of their school hours without displacement of adult workers."

The 1966 amendments to the Act further revised section 14 with respect to full-time students in retail and service establishments and added a provision for students in agriculture.

The report accompanying H.R. 13712 (H. Rept. No. 1366, 89th Congress, 2nd Session, March 29, 1966) explained that the full-time student certificates were to be issued to "students regardless of age (but in compliance with the applicable child labor laws)", and repeated the basic objectives of these provisions—to provide employment opportunities for students outside of school hours without displacement of adult workers.

The Committee agrees with the statements expressed in the 1961 and 1966 reports and proposes in S. 1861 to expand the scope of section 14 of the Act in order that educational institutions may be available as employment opportunities for students. The committee bill, however, retains the certification procedure, as it now exists, to insure that students will not be used to displace other workers. It bears noting that educational institutions should be able to meet the requirements of the certification program with relative ease, because students have traditionally been employed in the type of jobs for which certification will be requested. Thus the likelihood of adult displacement is diminished.

The Committee rejected a proposal that the FLSA be amended by repealing the special student certification program and replace it with a blanket subminimum wage of $1.60 or 80% of the statutory rate for young people below the age of eighteen and for full-time students up to the age of 21.

The Committee's rejection of this special subminimum rate was based on the conviction that this would violate the basic objective of the Act and that such a standard would contribute to rather than ease the critical problem of unemployment because it would encourage the displacement of older workers.

The Committee was disturbed by the following statement of Secretary of Labor Hodgson in his prepared testimony:

> "I recognize that there may be some concern that a lower minimum wage for young people under age 18, for full-time students, and for young job-starters may reduce employment opportunities for older workers. *There may be some risk in marginal cases.* (Italics added.)

The Committee is aware that the minimum wage worker is typically regarded as a "marginal" worker. Therefore, the Secretary's statement was not reassuring.

The Committee was also unconvinced that an increase in the minimum wage rate would result in aggravating youth unemployment. Indeed, Secretary Hodgson's testimony echoed the conclusion of the Labor Department study of youth unemployment that no relationship has been established between the minimum wage and youth unemployment:

> "Well, if you are asking for proof, as that document sets forth, there is no proof. There have been a great many economists and a

great many studies on this that recommend this change and indicate that it would stimulate employment.

"What we have here is, until we actually try this arrangement in this country and see what it will accomplish, proof in the traditional sense of that term is simply not available."

The Committee also rejected the theory, advanced during the hearings, that it should ignore the possible consequences of a subminimum rate for youth on employment opportunities for adults because of the availability of public assistance or welfare programs for unemployed adults.

The Fair Labor Standards Act enacted 33 years ago had as its stated objective the elimination of "living conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency and general well-being of workers."

Its basic purpose has been and continues to be the raising of wages of that small proportion of employees at the bottom of the wage scale who are in no position to bargain for themselves. It is not a substitute for collective bargaining or the operation of the free labor market. It protects the fair employer from unfair competition from employers willing to pay substandard wages. The minimum wage set under the Fair Labor Standards Act is not an average wage. By definition, it is the "lowest" wage which may be paid employees in activities covered by the Act. It is paid to the unskilled, untrained, inexperienced worker who frequently is young or black or a woman.

The minimum wage rate, not unlike the occupational wage rate, is a wage for a job— not for the age or sex or color of the person doing the job. That has been the way that wage determinations have traditionally been made in this country.

Those who recommend a subminimum wage as a solution to the unemployment problem appear to have serious misconceptions about the minimum wage and, in fact, about the role of wages in general.

There is no evidence to support the idea that low wages create jobs. Actually, what evidence there is points in the opposite direction. Putting money in the hands of low-wage workers is the most direct way of creating purchasing power—high-velocity dollars—and hence additional jobs.

To conclude that employers would hire workers whom they didn't really need because wages are low not only ignores the whole concept of business-for-profit but also omits from consideration all the other labor-cost factors such as employment, recruiting, supervision, social security, workmen's compensation, unemployment insurance, pension plans, hospitalization, medical plans—all of which are considered before new jobs are created.

Not only is it clear that a subminimum wage is not the solution to the teenage unemployment problem, there is considerable doubt as to whether the problem being discussed is teenage unemployment or discrimination in employment because of race.

A few figures will help to show that the color problem overshadows the age problem.

In 1971, there were more than 6 million employed teenagers aged 16 to 19. This was 2 million more than in 1961 and represented a 50 percent increase over the decade. Teenagers held almost 8% of all jobs in 1971 as compared with 6% in 1961. The single most important

reason for the relatively high unemployment rate for teenagers is the dramatic 41% increase in the teenage population during the decade of the 60's.

As far as teenagers are concerned, the decade of the 70's should ease the problem. In contrast to a 41% population growth of teenagers in the 60's, a modest 12% is the outlook of the 70's.

Actually, the rate of teenage unemployment was approximately the same in 1971 as in 1961 and was higher in 1963 than in 1971. Also, the teenage unemployment rate vis-a-vis the adult rate (20 and over) was better in 1971 than in any year since 1962.

While overall employment of teenagers was significantly higher in 1969 than in 1968 and continued to increase in 1970 and in 1971, nonwhite teenagers lost jobs in both 1970 and 1971. Between 1969 and 1971 there was a 3 percent increase in white teenage employment but a 12 percent drop in nonwhite teenage employment.

In 1971, the unemployment rate for nonwhite teenagers was 31.7%; for white teenagers, 15.1%. For nonwhite adults (20–24) the rate was 15.2%. As reflected in these figures color is more significant than age.

The committee was particulary struck by the fact that the unemployment rate in 1970 for nonwhite high school graduates (age 16 to 24) was 34.3% as compared with 24.9% for white high school dropouts.

Even these few figures convinced the committee that combining unemployment statistics for nonwhite and white teenagers and labelling the result a teenage problem, tended to disguise the real problem facing us today. And that is discrimination in employment because of color.

In rejecting the concept of a subminimum wage rate based on age, the committee was impressed by the findings in the Department of Labor study "Youth Unemployment and Minimum Wages" Bulletin 1657. This report, prepared by the Department of Labor in 1970, is a comprehensive report on the relationship between minimum wages and youth unemployment. The report states that the various studies failed to establish any relationship between youth unemployment and the minimum wage. To quote some of the major findings in this report:

> In general, the most important factor explaining changes in teenage employment and unemployment has been general business conditions as measured by adult unemployment rate.
>
> Not one of the local offices of the Employment Service (ES) cited the recent hike in the minimum wage or the extension of coverage under the Federal Fair Labor Standards Act as responsible for the change between June 1966 and June 1969 in the total number of nonfarm job openings available to teenagers, or which specified a minimum age of 16–19 years of age or 20 years old or over.
>
> In nearly all of the States covered by the study, differential minimum wage rates applicable to youth, including exemptions, appear to have little impact on the employment of youth in 1969.
>
> On the basis of our examination (with respect to foreign experience) however, it appears reasonable to conclude that wage differentials are less important factors than rapid economic growth, structural and technological shifts, national

> full employment, relatively low mobility rates, and the relative shortage of young workers. A similar confluence of these factors in the American economy might well have similar effects on youth employment regardless of the wage structure.

This same study provides information on the failure of employers who are now authorized to employ students at less than the minimum wage to make full use of this authorization. Only 42% of the hours authorized were actually used, which belies the argument that certificates are too difficult to obtain. A significant number of employers noted that teenagers were unwilling to work at less than the minimum wage. Many employers noted they were fully staffed. They indicated no interest in creating additional jobs at subminimum rates.

Furthermore, our experience following previous raises in the minimum wage rate does not show any connection between minimum wage levels and youth unemployment.

The Committee thus rejected the efforts to legislate wage discrimination solely on the basis of age. It did so for all of the previously stated reasons. It was also very cognizant, however, of the ultimate recognition by society of the necessity and propriety for equal treatment of young adults. It would be entirely inconsistent with the recent granting of the right to vote to 18 years olds to make second class wage earners out of this large working population. It is also entirely inconsistent with the Nation's goal of reducing unemployment among heads of families to create a massive pool of workers at substandard wages. It was considered unacceptable to this Committee to freeze young adults, many of whom are heads of households or the sole support of families, at substandard and subpoverty wages.

The committee is vitally interested in all programs which will stimulate the economy and generate additional jobs for all the unemployed. A healthy, thriving economy is the best antidote to unemployment. Wage-cutting is not and has never been a route to economic prosperity. The Committee is opposed to a youth wage or a black wage or any other such arbitrary subminimum wage under the Fair Labor Standards Act.

The Committee continues to be concerned with the high level of unemployment. The May 1972 report of the Bureau of Labor Statistics (released 6/2/72) states that the overall unemployment rate remained unchanged at 5.9 percent. It continues:

> "Although the overall jobless rate was unchanged over the month, there were some diverse movements among the major labor force groups. The rate of unemployment for adult women rose from 5.4 to 5.9 percent, a return to the levels prevailing late last fall; most of this increase occurred among those 20–24 years of age. The teenage unemployment rate, on the other hand, dropped from 17.3 to 15.7 and was at *its lowest point in almost 2 years.*" (Emphasis added)

The May 1972 report of the Bureau of Labor Statistics contains many other figures which challenge the position of those who would concentrate on only one facet of the unemployment problem—youth unemployment—rather than facing up to the overall unemployment crisis.

The report shows that the unemployment rate for white workers declined from 5.4 percent to 5.3 percent over the month while the rate for black workers increased from 9.6 to 10.7 percent, higher than a year ago. Other groups for which unemployment was higher in May 1972 than in May 1971 included adult men, adult women, household heads, married men and full-time workers.

The economy needs to be stimulated to create additional jobs. It does not need subminimum wages and job substitution.

EMPLOYMENT OF ILLEGAL ALIENS

The Committee amended the FLSA to impose a penalty for the "knowing" employment of illegal aliens. The amendment has three aspects as follows:

A. It adds to the criminal penalties already found in the Act for other violations, a misdemeanor criminal penalty ($1,000 fine, or one year imprisonment for each alien) for the *knowing* employment of an illegal alien by any employer covered by the FLSA. This is intended only to equalize the risk so that employers may find less incentive to employ illegals and less opportunity to use such employment as a way around the laws the Congress has enacted to protect labor standards.

B. It adds another disincentive to the employment of illegals by providing that government contracts subject to the customary prevailing wage and safe and healthful working conditions clauses of the Davis-Bacon, Walsh-Healey and McNamara-O'Hara Acts, must also contain assurances that illegal aliens will not be employed on the contract work or the employer may face contract cancellation and the other penalties of the relevant Act.

C. It limits the right of the Secretary or the Attorney General to make blanket "class" exemptions to this part of the Act. Without eliminating any existing right to make exceptions or exemptions, by rule and regulation, it does provide that as far as this provision is concerned each exemption must be granted on its own individual merits and exemptions may not be granted for entire industries, communities or seasons. It is not intended that the ban on the employment of illegals or the punishment for such employment should be waived simply because in the past it may have been the custom to look the other way in particular cases.

Estimates of the number of job-holding illegal aliens in the United States vary substantially from 1,500,000 to as high as 10,000,000. The official records of the Immigration and Naturalization Service, which are limited only to those illegals who have been apprehended, show 420,126 illegals were apprehended in the United States in F.Y. 1971, an increase in apprehensions of over 300 percent in the past five years.

The impact on labor standards of the "illegal alien" has long concerned this Committee, and particularly the Migratory Labor Subcommittee, for many illegals are employed in agriculture along our border areas with Mexico. The number of illegals in the job market creates a serious diminution of job possibilities for our already swollen ranks of unemployed and underemployed and for returning Viet Nam

veterans. Too often the presence of illegals permits employers to exploit workers, for their "illegal" status makes it unlikely that they will complain about substandard conditions. Especially at a time when unemployment levels are high, there is no justification for permitting the continuous use of illegal foreign workers to undercut this country's job market.

By "illegal aliens" the Committee is referring to a person who enters the United States unlawfully and finds work here or a person who enters the country lawfully and then violates the conditions of his admission with respect to employment. Insofar as any alien in an illegal or temporary status is authorized by the Attorney General to accept employment, then his employment by an employer would not be affected by this proposed provision.

More important is that insofar as an alien who is illegally present in this country had concealed his status from his employer, the employer would not be affected by the amendment. Such cases are covered in large measure by our immigration laws, over which the Committee has no jurisdiction.

It is the intent of the Committee that the amendment apply to employers covered by the Act who knowingly employ illegals. In a great many cases, the employer and the illegal alien closely collaborate in a venture in which the risks and prospective profits are quite unequally shared. Specifically, the knowing employer of illegal alien labor stands to gain in terms of not having to pay standard wages or fringe benefits, while he risks absolutely nothing. Because of the very nature of the worker's illegal status, he is subject not only to exploitation while on the job, but if he complains about his treatment, law enforcement authorities may be called upon to deport him back to his home country. Many times, in such situations, the employer loses only the time it takes him to find the next illegal alien.

It is very important to note that the Committee intends that this provision be enforced in a manner which prohibits the harassment of Mexican-Americans and the denial of basic human rights. In this way, employers would no longer be able to create two classes of employees—illegal alien laborers who are paid less and subjected to miserable housing and other working conditions, and domestic citizens who receive slightly better pay and treatment. By so doing, we have eliminated the economic incentive for exploitation of alien laborers and diminished the likelihood of employers playing off one class of workers against another.

EQUAL PAY FOR EQUAL WORK

The bill extends equal pay protection to workers employed in executive, administrative and professional capacities, as well as elementary and secondary school teachers, academic administrative personnel, and outside salesmen.

The Equal Pay Act, which was enacted in 1963 and became effective on June 11, 1964, outlaws wage discrimination because of sex. The categories of employees who are presently outside the scope of the equal pay standard are excluded primarily because the Act did not remain a separate statute as initially contemplated, but was incorporated into the FLSA complete with FLSA exclusions and exemptions. These exclusions were developed for reasons unrelated to wage discrimina-

tion and to apply them to an anti-wage discrimination standard was based on the fact that it would be simpler to administer if it was coextensive with minimum wage coverage.

Equal pay is now a well-recognized and accepted standard and the time has come to end exclusions which were at best "transitional" in nature.

The need for an equal-pay standard is at least as great or greater in the areas to which the standard is now inapplicable as in the areas to which it applies. The statistical evidence is persuasive that the more education and experience a woman worker has, the greater the earnings gap between her and a man with the same amount of education and experience. Furthermore, there is a considerable body of information which indicates that prohibitions against all forms of discrimination on account of sex under Title VII of the Civil Rights Act of 1964 has had little impact on insuring equal pay for equal work in executive, administrative, and professional categories.

The equal pay provision of the FLSA has proven to be an effective means of eliminating wage discrimination based solely on sex in activities covered by the standard. It is expected that extending the standard to other activities will be equally effective in eliminating the remaining areas of wage discrimination.

NONDISCRIMINATION ON ACCOUNT OF AGE IN GOVERNMENT EMPLOYMENT

S. 1861 amends the Age Discrimination in Employment Act of 1967 (PL 90–202) to include within the scope of coverage, Federal, State and local government employees. This amendment is similar to a proposal first introduced by Senator Bentsen as S. 3318, and then as an amendment to S. 1861. The amendment is a logical extension of the Committee's decision to extend FLSA coverage to Federal, State, and local government employees.

The ADEA prohibits discrimination in employment on the basis of age in matters of hiring, job retention, compensation, and other terms, conditions or privileges of employment. Protection under the Act is limited to individuals who are between the ages of 40 and 65.

The Committee recognizes that the omission of government workers from the Age Discrimination in Employment Act did not represent a conscious decision by the Congress to limit the ADEA to employment in the private sector. It reflects the fact, that in 1967, when ADEA was enacted, most government employees were outside the scope of the FLSA and the Wage Hour and Public Contracts Divisions of the Department of Labor, which enforces the Fair Labor Standards Act. were assigned responsibility for enforcing the Age Discrimination in Employment Act.

As the President said in his message of March 23, 1972, supporting such an extension of coverage under the ADEA, "Discrimination based on age—what some people call 'age-ism'—can be as great an evil in our society as discrimination based on race or religion or any other characteristic which ignores a person's unique status as an individual and treats him or her as a member of some arbitrarily-defined

group. Especially in the employment field, discrimination based on age is cruel and self-defeating; it destroys the spirit of those who want to work and it denies the Nation the contribution they could make if they were working."

The Committee was impressed by a press release issued by Secretary of Labor Hodgson on February 4, 1972 which was headed: "Voluntary Compliance with Age Discrimination Laws Opens Up 1 Million Jobs, Secretary of Labor Tells Congress". The release states that informal talks with some 30,000 employers dispelled "preconceived notions or myths" about the older worker.

The Committee expects that expanded coverage under the Age Discrimination in Employment law will remove discriminatory barriers against employment of older workers in government jobs at the Federal and local government levels as it has and continues to do in private employment.

RECOVERY OF BACK WAGES

Section 8 of the Committee bill amends section 16(c) to authorize the Secretary of Labor not only to bring suit to recover unpaid minimum wages or overtime compensation, a right which he currently has, but also to sue for an equal amount of liquidated damages without requiring a written request from an employee. The addition of liquidated damages is a necessary penalty to assure compliance with the Fair Labor Standards Act. Currently, all that is required of the employer is that he pay the wages that should have been paid in the first place, without any penalty for violating the Act. This is not a deterrent to future violations.

This Section would also allow the Secretary of Labor to bring suit even though the suit might involve issues of law that have not been finally settled by the courts. At the present time, many of the protections that are written into this Act are not being extended to workers because of the current restrictions on the Secretary in bringing suits in areas that have not been finally settled by the courts. The Act places the primary responsibility for the enforcement of this Act on the Secretary of Labor; he should have the right to bring suits directly in order to resolve issues of law.

The Committee is concerned that the Employment Standards Administration of the Department of Labor which now has responsibility for administering the Fair Labor Standards Act appears to be considering reordering its priorities in such a way as to downgrade enforcement of this Act. The Committee wishes to reemphasize that it expects the Department to maintain a vigorous enforcement program under this Act; that coverage should be interpreted broadly; and that every effort should be made to insure that those employees who have been the victims of violations of this Act are made whole.

It is to be noted that information furnished to the Committee by the Department of Labor shows that violations of the FLSA are still widespread, and that an intensified program of inspections is fully warranted by the results achieved by the present enforcement program. Low-wage employees, who desperately need a decent wage to provide themselves and their families with the rudiments of life, are

being cheated out of millions of dollars each year; and violations of child labor laws are so widespread as to constitute a national scandal. The Department of Labor must, of course, encourage voluntary compliance with the law and furnish technical assistance to employers who may not fully understand its complexities; but we have not yet reached the point where we can place primary reliance on these approaches; a vigorous and tough enforcement program remains a necessity to guarantee that American workers receive the full protection that the FLSA is designed and intended to provide to them.

TABULATION OF VOTES IN COMMITTEE

Pursuant to section 133 (b) of the Legislative Reorganization Act of 1946, as amended, the following tabulation of votes in committee is provided.

1. Senator Dominick's amendment to strike from the bill coverage of domestics (defeated 13–3):

YEAS—3

Mr. Dominick
Mr. Packwood
Mr. Taft

NAYS—13

Mr. Williams
Mr. Randolph
Mr. Pell
Mr. Kennedy
Mr. Nelson
Mr. Mondale
Mr. Eagleton
Mr. Cranston
Mr. Hughes
Mr. Stevenson
Mr. Javits
Mr. Schweiker
Mr. Stafford

2. Senator Stevenson's amendment to provide for a criminal penalty for the knowing employment of illegal aliens (adopted 10–3):

YEAS—10

Mr. Williams
Mr. Randolph
Mr. Kennedy
Mr. Mondale
Mr. Eagleton
Mr. Cranston
Mr. Hughes
Mr. Stevenson
Mr. Schweiker
Mr. Stafford

NAYS—3

Mr. Dominick
Mr. Packwood
Mr. Taft

3. Senator Dominick's amendment to retain the dollar-volume test for retail and service establishments at $250,000 (defeated 10–6):

YEAS—6

Mr. Randolph
Mr. Dominick
Mr. Packwood
Mr. Taft
Mr. Beall
Mr. Stafford

NAYS—10

Mr. Williams
Mr. Pell
Mr. Kennedy
Mr. Nelson
Mr. Mondale
Mr. Cranston
Mr. Hughes
Mr. Stevenson
Mr. Javits
Mr. Schweiker

4. Senator Williams' amendment to reduce the dollar-volume test from $250,000 to $150,000 in four $25,000 annual stages (adopted 13–3):

YEAS—13

Mr. Williams
Mr. Randolph
Mr. Pell
Mr. Kennedy
Mr. Nelson
Mr. Mondale
Mr. Cranston
Mr. Hughes
Mr. Stevenson
Mr. Javits
Mr. Schweiker
Mr. Beall
Mr. Stafford

NAYS—3

Mr. Dominick
Mr. Packwood
Mr. Taft

5. Senator Packwood's amendment to retain the overtime exemption in the present law for automobile mechanics (defeated 9–6):

YEAS—6

Mr. Dominick
Mr. Schweiker
Mr. Packwood
Mr. Taft
Mr. Beall
Mr. Stafford

NAYS—9

Mr. Williams
Mr. Randolph
Mr. Pell
Mr. Kennedy
Mr. Mondale
Mr. Eagleton
Mr. Cranston
Mr. Stevenson
Mr. Javits

6. Senator Taft's amendment to remove the minimum wage exemption for newsboys (defeated 7–2):

YEAS—2

Mr. Dominick
Mr. Taft

NAYS—7

Mr. Williams
Mr. Randolph
Mr. Cranston
Mr. Schweiker
Mr. Packwood
Mr. Beall
Mr. Stafford

7. Senator Taft's amendment to retain the overtime exemption for local transit drivers (defeated 10–6):

YEAS—6

Mr. Randolph
Mr. Dominick
Mr. Packwood
Mr. Taft
Mr. Beall
Mr. Stafford

NAYS—10

Mr. Williams
Mr. Pell
Mr. Kennedy
Mr. Nelson
Mr. Mondale
Mr. Eagleton
Mr. Cranston
Mr. Stevenson
Mr. Javits
Mr. Schweiker

8. Senator Taft's amendment for a youth differential of 80 percent of the minimum rate or $1.60 whichever is higher (80 percent or $1.30 for agriculture) (defeated 13–4):

YEAS—4

Mr. Dominick
Mr. Packwood
Mr. Taft
Mr. Beall

NAYS—13

Mr. Williams
Mr. Randolph
Mr. Pell
Mr. Kennedy
Mr. Nelson
Mr. Mondale
Mr. Eagleton
Mr. Cranston
Mr. Hughes
Mr. Stevenson
Mr. Javits
Mr. Schweiker
Mr. Stafford

9. Senator Dominick's amendment to set the minimum rates as follows—for non-agricultural employees covered prior to 1966, $1.80 the first year and $2.00 thereafter, for non-agricultural empoyees covered by the 1966 or the 1972 amendments, $1.70 the first year, $1.80 the second year and $2.00 thereafter, for agricultural employees, $1.50 the first year and $1.70 thereafter (defeated 13–4) :

YEAS—4

Mr. Dominick
Mr. Packwood
Mr. Taft
Mr. Beall

NAYS—13

Mr. Williams
Mr. Randolph
Mr. Pell
Mr. Kennedy
Mr. Nelson
Mr. Mondale
Mr. Eagleton
Mr. Cranston
Mr. Hughes
Mr. Stevenson
Mr. Javits
Mr. Schweiker
Mr. Stafford

10. Senator Taft's amendment to strike from the bill coverage of Federal employees (defeated 13–4) :

YEAS—4

Mr. Dominick
Mr. Packwood
Mr. Taft
Mr. Beall

NAYS—13

Mr. Williams
Mr. Randolph
Mr. Pell
Mr. Kennedy
Mr. Nelson
Mr. Mondale
Mr. Eagleton
Mr. Cranston
Mr. Hughes
Mr. Stevenson
Mr. Javits
Mr. Schweiker
Mr. Stafford

11. Senator Williams' motion that the committee favorably report S. 1861, as amended (adopted 14–3) :

YEAS—14

Mr. Williams
Mr. Randolph
Mr. Pell
Mr. Kennedy
Mr. Nelson
Mr. Mondale
Mr. Eagleton
Mr. Cranston
Mr. Hughes
Mr. Stevenson
Mr. Javits
Mr. Schweiker
Mr. Beall
Mr. Stafford

NAYS—3

Mr. Dominick
Mr. Packwood
Mr. Taft

SECTION-BY-SECTION ANALYSIS

SECTION 1. The popular name of this bill is the "Fair Labor Standards Amendments of 1972."

SEC. 2. Amends sections 3(d) and 3(e) of the Fair Labor Standards Act of 1938, as amended, to include under the definitions of "employer" and "employee" the United States and any State or political subdivision of a State. This will expand the coverage of the existing law to include agencies and activities of the United States (except the armed forces and certain employees not in the competitive service), and to similar employees in the States and their political subdivisions, not just hospitals, nursing homes, schools, and local transit as at present. This amendment would add to coverage an estimated 4.9 million workers (1.7 million Federal, 3.2 million State and local government).

Amends section 3(e) to also include under the definition of "employee" any individual employed in domestic service, except babysitters. This amendment would add to coverage an estimated 1.2 million workers. In addition, section 3(e) is amended to include local seasonal hand harvest laborers in the man-day count for agricultural coverage and to define those government employees covered by the bill.

Amends section 3(h) to add the words "or other activity" to the definition of the word "Industry."

Amends section 3(m) to reduce the allowance for tips as part of wages for employees in normally tipped occupations to 40 percent and to require that tipped employees retain all tips. At present, employers may include the value of tips actually received in determining wages to be paid, up to half the statutory minimum rate.

Amends section 3(r) to include under "enterprise" the activities of the United States Government or any State or political subdivision thereof. This amendment will have the effect of retaining the current coverage for schools and hospitals, whether operated for profit or not for profit, and for regulated public and private local transit whether operated for profit or not for profit.

Amends section 3(s) to lower the sales test for "enterprise" coverage to $150,000 in annual gross sales over a four-year period, thus adding to coverage those enterprises with between $250,000 and $150,000 in gross sales. This amendment retains coverage of enterprises which are engaged in: laundering, cleaning or repair of clothing or fabrics; construction or reconstruction or both; and the operation of hospitals and schools, whether operated for profit or not for profit. Present law covers only retail and service enterprises with annual gross sales volume of $250,000 or more. This amendment would add to coverage an estimated 2 million workers (1.8 million in retail trade, and about .2 million in services, excluding domestic service).

Amends sections 5 and 8 by bringing under the mainland minimum wage the employees of hotels, motels, and restaurants in Puerto Rico and the Virgin Islands. At present these workers are covered by wage

rates determined by specially convened industry committees. Also covered at the mainland minimum are employees of governmental units in Puerto Rico and the Virgin Islands.

SEC. 3. Amends section 4 to make it a crime to knowingly employ illegal aliens.

SEC. 4. Amends section 6(a) to establish, for employees in activities covered by the Act prior to the 1966 amendments, an hourly minimum of $2.00 during the first year from the effective date of the 1972 amendments and $2.20 thereafter.

Amends section 6(a) to establish, for employees in agriculture, an hourly minimum of $1.60 during the first year from the effective date of the 1972 amendments, $1.80 during the second year from the effective date of the 1972 amendments, $2.00 during the third year from the effective date of the 1972 amendments, and $2.20 thereafter.

Amends section 6(a) to establish, for employees newly covered by the 1966 amendments and by the 1972 amendments, an hourly minimum of $1.80 during the first year from the effective date of the 1972 amendments, $2.00 during the second year from the effective date of the 1972 amendments, and $2.20 thereafter.

Amends section 6(c) to require that covered employees in Puerto Rico and the Virgin Islands making less than $0.80 per hour under the most recent wage order be paid not less than $1.00 sixty days after enactment. Thereafter, their wages are increased by $0.20 per hour each year until parity is achieved with the mainland minimum. Employees over $0.80 per hour are raised $0.20 per hour each year after enactment until parity is achieved. Each year, special industry committees may increase the $0.20 per hour raise, but they may not lower it. Provision is also made for newly covered employees.

Amends section 6(e) to eliminate clauses excluding certain linen supply establishments from full coverage.

SEC. 5. Amends section 7 to eliminate certain provisions which provide partial overtime exemptions, particularly in agricultural processing industries, and makes other conforming amendments.

Amends section 7 to provide for overtime averaging over a twenty-eight day period and a phase down from 48 to 40 hours per week without time-and-a-half penalty for state and local government employees engaged in fire protection and law enforcement activities, including security personnel in correctional institutions.

Amends section 7 to exempt voluntary charter activities from hours worked in local transit for purposes of calculating overtime.

SEC. 6. Amends section 12 to permit the Secretary to require employers to obtain proof of age from any employee in order to carry out the objectives of the child labor provisions of the Act.

SEC. 7(a). Amends section 13(a) to bring executive, administrative, or professional employees under the equal pay provision (section 6(d)) of the law. Section 6(d) was added to the Fair Labor Standards Act by the Equal Pay Act of 1963, 77 Stat. 56.

Retains minimum wage and overtime exemptions permitted by section 13(a) as follows:

13(a)(1) which describes any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman;

13(a)(3) employees of seasonal amusement and recreational establishments;

13(a)(5) employees engaged in certain seafood harvesting and processing;

13(a)(6) employees in agriculture if employer uses 500 or fewer man days of hired labor during a peak quarter, but the provision exempting local seasonal hand harvest laborers regardless of the size of the farm on which they work is repealed;

13(a)(7) certain learners, apprentices, students, or handicapped workers;

13(a)(8) employees of small newspapers;

13(a)(10) switchboard employees of small telephone companies; and

13(a)(12) seamen on other than an American vessel.

Repeals minimum wage and overtime exemptions permitted by section 13(a) as follows:

13(a)(4) and (11) employees in certain retailing and service establishments;

13(a)(9) employees of motion picture theaters;

13(a)(14) agriculture employees engaged in growing and harvesting shade-grown tobacco.

Repeals section 13(a)(13) by removing minimum wage exemption for logging employees and retaining overtime exemption in new paragraph of section 13(b).

Amends section 13(a)(2) by eliminating the special dollar volume establishment test for retail and service enterprises. This amendment has the effect of covering most chain store operations not now covered.

SEC. 7(b). Retains overtime exemptions permitted by section 13(b) as follows:

13(b)(1) employees for whom the Secretary of Transportation may establish qualifications and maximum hours of service:

13(b)(2) employees of railroads;

13(b)(3) employees of air carriers,

13(b)(5) outside buyers of dairy products;

13(b)(6) seamen;

13(b)(9) certain employees of small radio or television stations;

13(b)(10) employees employed as salesman by motor vehicle dealers, or as salesmen, partsmen or mechanics by farm implement dealers;

13(b)(11) local drivers and drivers' helpers;

13(b)(12) certain agricultural employees;

13(b)(13) employees engaged in livestock auction operations;

13(b)(14) employees of country elevators;

13(b)(16) employees engaged in transportation of fruits and vegetables; and

13(b)(17) taxicab drivers.

Repeals overtime exemptions permitted by section 13(b) as follows:

13(b)(2) employees of oil pipelines;

13(b)(4) employees of certain fish and aquatic forms of food processors;

13(b)(10) employees employed as partsmen or mechanics by motor vehicle dealers, or as salesmen, partsmen or mechanics by aircraft dealers;

13(b)(15) employees engaged in ginning of cotton, sugar beet or sugar cane processing, but the exemption for employees engaged in the processing of maple sap into syrup is retained;

Overtime standards for certain employees are improved in stages as follows:

13(b)(8) employees of nursing homes must be paid time-and-a-half after 48 hours first year (as in present law), after 46 hours second year, and after 44 hours thereafter;

13(b)(8) employees of hotels, motels, and restaurants must be paid time-and-a-half after 48 hours first year, and after 46 hours thereafter.

Overtime standards for certain employees are repealed in stages as follows:

13(b)(7) employees of street, suburban or interurban electric railways, or local trolley or motor bus carriers must be paid time-and-a-half after 48 hours first year, 44 hours second year, and the exemption is repealed thereafter (all hours exclusive of voluntary charter time);

13(b)(18) and 13(b)(19) employees of food service and catering establishments and bowling establishments must be paid time-and-a-half after 48 hours first year, 44 hours second year, and the exemptions are repealed thereafter.

Amends section 13(b) to provide new overtime exemptions for the following employees:

Domestic service employees,

Resident employees in small apartment buildings,

Houseparents (couples) of orphans in private nonprofit educational institutions, if couple earns at least $10,000 per year.

Driver-salesmen in certain dry cleaning establishments who earn more than half their salary in commissions.

Amends section 13(d) to exempt from the child labor laws newsboys delivering shopping news and advertising material published by the newspaper.

SEC. 7(c). Amends the provisions relating to child labor in agriculture to prohibit certain employment outside of school hours, principally for all children under the age of twelve, except on a farm owned or operated by a parent.

SEC. 8. Amends section 14(b) to prevent unwarranted displacement of full-time employees by student workers in retail and service establishments that are brought within the coverage of the FLSA by these amendments and to provide for student certificates for educational institutions.

SEC. 9. Amends section 16(c) to allow the Secretary of Labor to bring suit to recover unpaid minimum wages or overtime compensation and an equal amount of liquidated damages without requiring a written request from an employee. In addition, this amendment would allow the Secretary to bring such actions even though the suit might involve issues of law that have not been finally settled by the courts.

SEC. 10. Amends section 16 to provide for a civil penalty of up to $1000 for violation of the provisions of section 12, relating to child labor.

SEC. 11. Amends section 18(b) to conform with new amendments.

SEC. 12. Provides conforming amendments to other laws.

SEC. 13. Amends age discrimination in Employment Act of 1967 to cover employees of Federal, State, and local governments.

SEC. 14. Provides that the Fair Labor Standards Amendments of 1972 become effective 60 days after date of enactment.

Changes in Existing Law

(Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FAIR LABOR STANDARDS ACT OF 1938

AN ACT To provide for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Labor Standards Act of 1938."

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce.

(b) It is hereby declared to be the policy of this Act, through the exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employments or earning power.

DEFINITIONS

SEC. 3. As used in this Act—

(a) "Person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

(b) "Commerce" means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(c) "State" means any State of the United States or the District of Columbia or any Territory or possession of the United States.

(d) "Employer" includes any person acting directly or indirectly in the interest of an employer in relation to an [employee but shall not include] *employee, including* the United States [or] *and* any

State or political subdivision of a [State (except with respect to employees of a State, or a political subdivision thereof, employed (1) in a hospital, institution, or school referred to in the last sentence of subsection (r) of this section, or (2) in the operation of a railway or carrier referred to in such sentence), or] *State, but shall not include* any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

(e) "Employee" [includes] *means* any individual employed by an employer, *including any individual employed in domestic service (other than a babysitter), and in the case of any individual employed by the United States means any individual employed (1) as a civilian in the military departments as defined in Section 102 of Title 5, United States Code, (2) in executive agencies (other than the General Accounting Office) as defined in Section 105 of Title 5, United States Code (including employees who are paid from non-appropriated funds), (3) in the United States Postal Service and the Postal Rate Commission, (4) in those Units of the Government of the District of Columbia having positions in the competitive service, (5) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (6) in the Library of Congress, and in the case of any individual employed by any State or political subdivision of any State means any employee holding a position comparable to one of the positions enumerated for individuals employed by the United States* except that such term shall not, for the purposes of section 3(u) include [—]

[(1)] any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family. [or]

[(2) any individual who is employed by an employer engaged in agriculture if such individual (A) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (B) commutes daily from his permanent residence to the farm on which he is so employed, and (C) has been employed in agriculture less than thirteen weeks during the preceding calendar year.]

(f) "Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, furbearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

(g) "Employ" includes to suffer or permit to work.

(h) "Industry" means a trade, business, industry, *or other activity*, or branch *or group* thereof, [or group of industries,] in which individuals are gainfully employed.

(i) "Goods" means goods (including ships and marine equipment), wares, products, commodities, merchandise, or articles or subjects of commerce of any character, or any part or ingredient thereof, but does not include goods after their delivery into the actual physical possession of the ultimate consumer thereof other than a producer, manufacturer, or processor thereof.

(j) "Produced" means produced, manufactured, mined, handled, or in any other manner worked on in any State; and for the purposes of this Act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State.

(k) "Sale" or "sell" includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

(l) "Oppressive child labor" means a condition of employment under which (1) any employee under the age of sixteen years is employed by an employer (other than a parent or a person standing in place of a parent employing his own child or a child in his custody under the age of sixteen years in an occupation other than manufacturing or mining or an occupation found by the Secretary of Labor to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their health or well-being) in any occupation, or (2) any employee between the ages of sixteen and eighteen years is employed by an employer in any occupation which the Secretary of Labor shall find and by order declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being; but oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child labor age. The Secretary of Labor shall provide by regulation or by order that the employment of employees between the ages of fourteen and sixteen years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being.

(m) "Wage" paid to any employee includes the reasonable cost, as determined by the Secretary of Labor, to the employer of furnishing such employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by such employer to his employees: *Provided*, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: *Provided further*, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures

of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee. In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of [50] *40* per centum of the applicable minimum wage rate, except that [in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the Secretary that the actual amount of tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount.] *the amount of the increase on account of tips determined by the employer may not exceed the value of tips actually received by the employee. The previous sentence shall not apply unless (1) the employer has informed each of his tipped employees of the provisions of this section, and (2) all tips received by any such employees have been retained by such tipped empoyees.*

(n) "Resale" shall not include the sale of goods to be used in residential or farm building construction, repair, or maintenance: *Provided*, That the sale is recognized as a bona fide retail sale in the industry.

(o) HOURS WORKED.—In determining for the purposes of sections 6 and 7 the hours for which an employee is employed, there shall be excluded any time spent in changing clothes or washing at the beginning or end of each workday which was excluded from measured working time during the week involved by the express terms of or by custom or practice under a bona fide collective-bargaining agreement applicable to the particular employee.

(p) "American vessel" includes any vessel which is documented or numbered under the laws of the United States.

(q) "Secretary" means the Secretary of Labor.

(r) "Enterprise" means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether *public or private or conducted for profit or not for profit, or whether* performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor: *Provided*, That, within the meaning of this subsection, a retail or service establishment which is under independent ownership shall not be deemed to be so operated or controlled as to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not necessarily limited to, an agreement, (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other

retail or service establishments. For purposes of this subsection, the activities performed by any person or persons [—]

[(1) in connection with the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, an elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit), or

[(2) in connection with the operation of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit),

shall be deemed to be activities performed for a business purpose.] *in connection with the activities of the Government of the United States or o fany State or political subdivision of any State shall be deemed to be activities performed for a business purpose.*

(s) "Enterprise engaged in commerce or in the production of goods for commerce" means an enterprise (*whether public or private or operated for profit or not for profit and including activities of the Government of the United States or of any State or political subdivision of any State*) which has [employees] *any employee* engaged in commerce or in the production of goods for commerce, including [employees] *any employee* handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person, and which—

(1) [during the period February 1, 1967, through January 31, 1969,] is an enterprise whose annual gross volume of sales made or business done is—[not less than $500,000 (exclusive of excise taxes at the retail level which are separately stated) or is a gasoline service establishment whose annual gross volume of sales is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated), and beginning February 1, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated);]

(*A*) *not less than $225,000 (exclusive of excise taxes at the retail level which are separately stated) during the first year from the effective date of the Fair Labor Standards Amendments of 1972;*

(*B*) *not less than $200,000 (exclusive of excise taxes at the retail level which are separately stated) during the second year from such date;*

(*C*) *not less than $175,000 (exclusive of excise taxes at the retail level which are separately stated) during the third year from such date;*

(*D*) *not less than $150,000 (exclusive of excise taxes at the retail level are separately stated) thereafter;*

(2) is engaged in laundering, cleaning, or repairing clothing or fabrics;

(3) is engaged in the business of construction or reconstruction, or both; or

(4) is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, an elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit).

[Any establishment which has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection.]

Any establishment which has as its only regular employee the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise.

(t) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than $20 a month in tips.

(u) "Man-day" means any day during which an employee performs any agricultural labor for not less than one hour.

(v) "Elementary school" means a day or residential school which provides elementary education, as determined under State law.

(w) "Secondary school" means a day or residential school which provides secondary education, as determined under State law.

ADMINISTRATION

SEC. 4. (a) There is hereby created in the Department of Labor a Wage and Hour Division which shall be under the direction of an Administrator, to be known as the Administrator of the Wage and Hour Division (in this Act referred to as the "Administrator"). The Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of $26,000 a year.*

(b) The Secretary of Labor may, subject to the civil service laws, appoint such employees as he deems necessary to carry out his functions and duties under this Act and shall fix their compensation in accordance with the Classification Act of 1949, as amended. The Secretary may establish and utilize such regional, local, or other

* *Excerpts From Reorganization Plan No. 6 of 1950, 64 Stat. 1263.*

"Except as otherwise provided [with respect to hearing examiners], there are hereby transferred to the Secretary of Labor all functions of all other officers of the Department of Labor and all functions of all agencies and employees of such Department * * *. The Secretary of Labor may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Labor of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan."

agencies, and utilize such voluntary and uncompensated services, as may from time to time be needed. Attorneys appointed under this section may appear for and represent the Secretary in any litigation, but all such litigation shall be subject to the direction and control of the Attorney General. In the appointment, selection, classification, and promotion of officers and employees of the Secretary, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency.

(c) The principal office of the Secretary shall be in the District of Columbia, but he or his duly authorized representative may exercise any or all of his powers in any place.

(d) The Secretary shall submit annually in January a report to the Congress covering his activities for the preceding year and including such information, data, and recommendations for further legislation in connection with the matters covered by this Act, as he may find advisable. Such report shall contain an evaluation and appraisal by the Secretary of the minimum wages established by this Act, together with his recommendations to the Congress. In making such evaluation and appraisal, the Secretary shall take into consideration any changes which may have occurred in the cost of living and in productivity and the level of wages in manufacturing, the ability of employers to absorb wage increases, and such other factors as he may deem pertinent.

(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. If he determines such increased unemployment has in fact resulted, or is in fact likely to result, from such competition, he shall make a full and complete report of his findings and determinations to the President and to the Congress; Provided, that he may also include in such report information on the increased employment resulting from additional exports in any industry under this Act as he may determine to be pertinent to such report.

(f) Any employer subject to this Act, including any person acting as an agent of such employer, who knowingly employs any alien who is in the United States in violation of law or in an immigration status in which such employment is not authorized, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both, for each alien with respect to whom any violation of this subsection occurs.

(g) Any contract subject to the Act of March 3, 1931 (40 U.S.C. 276a—276a–5, known as the Davis-Bacon Act), the Act of June 30, 1936 (41 U.S.C. 35–45, known as the Walsh-Healey Act), or the Service Contract Act of 1965 (41 U.S.C. 351–357) shall contain, in addition to the provisions required by such Acts, a provision by which the contractor agrees not to knowingly employ in the performance of such contract any alien who is in the United States in violation of law or in an immigration status in which such employment is not authorized. Any violation of such contract provision will be subject to the penalties provided in such Act, as well as in this Act.

(h) Neither the Secretary nor the Attorney General shall, by rule or regulation, grant any general exemption to any provision of this section, with respect to any class of employers or employees.

SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 5. (a) The Secretary of Labor shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands, engaged in commerce or in the production of goods for commerce or employed in any enterprise engaged in commerce or in the production of goods for commerce, or the Secretary may appoint separate industry committees to recommend the minimum rate or rates of wages to be paid under section 6 to employees therein engaged in commerce or in the production of goods for commerce or employed in any enterprise engaged in commerce or in the production of goods for commerce in particular industries. An industry committee appointed under this subsection shall be composed of residents of such island or islands where the employees with respect to whom such committee was appointed are employed and residents of the United States outside of Puerto Rico and the Virgin Islands. In determining the minimum rate or rates of wages to be paid, and in determining classifications, such industry committees shall be subject to the provisions of section 8.

(b) An industry committee shall be appointed by the Secretary without regard to any other provisions of law regarding the appointment and compensation of employees of the United States. It shall include a number of disinterested persons representing the public, one of whom the Secretary shall designate as chairman, a like number of persons representing employees in the industry, and a like number representing employers in the industry. In the appointment of the persons representing each group, the Secretary shall give due regard to the geographical regions in which the industry is carried on.

(c) Two-thirds of the members of an industry committee shall constitute a quorum, and the decision of the committee shall require a vote of not less than a majority of all its members. Members of an industry committee shall receive as compensation, for their services a reasonable per diem, which the Secretary shall by rules and regulations prescribe, for each day actually spent in the work of the committee, and shall in addition be reimbursed for their necessary traveling and other expenses. The Secretary shall furnish the committee with adequate legal, stenographic, clerical, and other assistance, and shall by rules and regulations prescribe the procedure to be followed by the committee.

(d) The Secretary shall submit to an industry committee from time to time such data as he may have available on the matters referred to it, and shall cause to be brought before it in connection with such matters any witnesses whom he deems material. An industry committee may summon other witnesses or call upon the Secretary to furnish additional information to aid it in its deliberations.

(e) The provisions of this section and section 8 shall not apply with respect to the minimum wage rate of any employee in Puerto Rico or the Virgin Islands employed (1) by an establishment which is a hotel, motel, or restaurant, or (2) by any other retail or service establishment if such employee is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or

curb or counter service, to the public, to employees, or to members or guests of members of clubs, or (3) by any employer which is a State or a political subdivision of any State. The minimum wage rate of such an employee shall be determined in accordance with sections 6, 13, and 14 of this Act.

(f) The provisions of this section and section 8 shall not operate to permit a wage order rate lower than that which would result under the provisions of section 6(c).

MINIMUM WAGES

SEC. 6. (a) Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates:

[(1) not less than $1.40 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966 and not less than $1.60 an hour thereafter, except as otherwise provided in this section;]

(1)(A) not less than $2.00 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1972, and

(B) not less than $2.20 an hour thereafter.

(2) if such employee is a home worker in Puerto Rico or the Virgin Islands, not less than the minimum piece rate prescribed by regulation or order; or, if no such minimum piece rate is in effect, any piece rate adopted by such employer which shall yield, to the proportion or class of employees prescribed by regulation or order, not less than the applicable minimum hourly wage rate. Such minimum piece rates or employer piece rates shall be commensurate with, and shall be paid in lieu of, the minimum hourly wage rate applicable under the provisions of this section. The Secretary of Labor, or his authorized representative, shall have power to make such regulations or orders as are necessary or appropriate to carry out any of the provisions of this paragraph, including the power without limiting the generality of the foregoing, to define any operation or occupation which is performed by such home work employees in Puerto Rico or the Virgin Islands; to establish minimum piece rates for any operation or occupation so defined; to prescribe the method and procedure for ascertaining and promulgating minimum piece rates; to prescribe standards for employer piece rates, including the proportion or class of employees who shall receive not less than the minimum hourly wage rate; to define the term "home worker"; and to prescribe the conditions under which employers, agents, contractors, and subcontractors shall cause goods to be produced by home workers.

(3) if such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time. Each such committee shall have the same powers and duties and shall apply the same standards with respect to the appli-

cation of the provisions of this Act to employees employed in American Samoa as pertain to special industry committees established under section 5 with respect to employees employed in Puerto Rico or the Virgin Islands. The minimum wage rate thus established shall not exceed the rate prescribed in paragraph (1) of this subsection;

(4) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement); or

(5) if such employee is employed in agriculture, not less than [$1] *$1.60* an hour during the first year from the effective date of the Fair Labor Standards Amendments of [1966,] *1972*, not less than [$1.15] *$1.80* an hour during the second year from such date, *not less than $2.00 an hour during the third year from such date*, and not less than [$1.30] *$2.20* an hour thereafter.

(b) Every employer shall pay to each of his employees (other than an employee to whom subsection (a) (5) applies) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this section by the amendments made to this Act by the Fair Labor Standards Amendments of 1966, *or the Fair Labor Standards Amendments of 1972*, wages at the following rates:

[(1) not less than $1 an hour during the first year from the effective date of such amendments,

[(2) not less than $1.15 an hour during the second year from such date,

[(3) not less than $1.30 an hour during the third year from such date,

[(4) not less than $1.45 an hour during the fourth year from such date, and

[(5) not less than $1.60 an hour thereafter.]

(1) not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1972;

(2) not less than $2.00 an hour during the second year from such date; and

(3) not less than $2.20 an hour thereafter.

(c) (1) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5.

[(2) In the case of any such employee who is covered by such a wage order to whom the rate or rates prescribed by subsection (a) would otherwise apply, the following rates shall apply:

[(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the

Fair Labor Standards Amendments of 1966, increased by 12 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1966 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

[(B) Beginning one year after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 16 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a view committee under paragraph (C).

[(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1966 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

[(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such un-

dertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

[(3) In the case of any such employee to whom subsection (a)(5) or subsection (b) would otherwise apply, the Secretary shall within sixty days after the effective date of the Fair Labor Standards Amendments of 1966 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by section 8, but not in excess of the applicable rate provided by subsection (a)(5) or subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (a)(5) or subsection (b), as the case may be. The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1966.

[(4) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee.]

(2) In the case of any such employee who is covered by such a wage order to whom the rate or rates prescribed by subsection (a) or (b) would otherwise apply, the following rates shall apply:

(A) During the first year from the effective date of the Fair Labor Standards Amendments of 1972, for any employee whose highest rate is less than $0.80 an hour, such rate shall not be less than $1.00 an hour.

(B) During the first year from the effective date of the Fair Labor Standards Amendments of 1972 for any employee whose highest rate is $0.80 an hour or more, such rate shall be the highest rate or rates in effect on or before such date under any wage order covering such employee, increased by $0.20.

(C) During the second year from the effective date of the Fair Labor Standards Amendments of 1972, and in each year thereafter, the highest rate or rates (including any increase prescribed by this paragraph) in effect on or before such date, under any wage order covering such employee increased by $0.20 in each such year.

(D) Whenever the rates prescribed by subparagraph (C) would otherwise equal or exceed the rates prescribed in section 6(a), the provisions of such section shall apply thereafter.

(3)(A) In the case of any such employee to whom this subsection was made applicable by the Fair Labor Standards Amendments of 1972, the Secretary shall, as soon as practicable after the date of enactment of such amendment, appoint a special industry committee in accordance with section 5. Such industry committee shall recommend a minimum wage rate of $1.60, unless there is substantial documentary evidence, including pertinent unabridged profit and loss statements and balance sheets for a representative period of years, in the record which establishes that the industry, or a predominant portion thereof, is unable to pay that wage. In no event shall any industry committee recommend a minimum wage rate less than the rate prescribed in paragraph (2)(A) of this subsection. Any rate recommended by the special industry committee within sixty days after the effective date of the Fair Labor Standards Amendments of 1972 shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation, but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1972.

(B) Upon the issuance of the wage order required by subparagraph (A) of this paragraph, the provisions of paragraph (2) shall apply.

(4) In the case of any employee employed in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5 and whose hourly wage is increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the following rates shall apply:

(A) The rate or rates applicable under the most recent such wage order issued by the Secretary increased, by (i) the amount by which such employee's hourly wage is increased above such rate or rates by the subsidy (or other income supplement), and (ii) $0.20.

(B) Beginning one year after the effective date of the Fair Labor Standards Amendments of 1972, the provisions of subparagraphs 2(C) and 2(D) of this subsection shall apply.

(d)(1) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex: *Provided*, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.

(2) No labor organization, or its agents, representing employees of an employer having employees subject to any provisions of this section

shall cause or attempt to cause such an employer to discriminate against an employee in violation of paragraph (1) of this subsection.

(3) For purposes of administration and enforcement, any amounts owing to any employee which have been withheld in violation of this subsection shall be deemed to be unpaid minimum wages or unpaid overtime compensation under this Act.

(4) As used in this subsection, the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

[(c)(1) Notwithstanding the provisions of section 13 of this Act (except subsections (a)(1) and (f) thereof), every employer providing any contract services (other than linen supply services) under a contract with the United States or any subcontract thereunder shall pay to each of his employees whose rate of pay is not governed by the Service Contract Act of 1965 (41 U.S.C. 351–357) or to whom subsection (a)(1) of this section is not applicable, wages at rates not less than the rates provided for in subsection (b) of this section.

[(2) Notwithstanding the provisions of section 13 of this Act (except subsections (a)(1) and (f) thereof) and the provisions of the Service Contract Act of 1965, every employer in an establishment providing linen supply services to the United States under a contract with the United States or any subcontract thereunder shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (b), except that if more than 50 per centum of the gross annual dollar volume of sales made or business done by such establishment is derived from providing such linen supply services under any such contracts or subcontracts, such employer shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (a)(1) of this section.]

(e) Notwithstanding the provisions of section 13 of this Act (except subsections (a)(1) and (f) thereof), every employer providing any contract services under a contract with the United States or any subcontract thereunder shall pay to each of his employees whose rate of pay is not governed by the Service Contract Act of 1965 (41 U.S.C. 351–357) or to whom subsection (a) of this section is not applicable, wages at rates not less than the rates provided for in such subsection.

(f) Every employer who in any workweek employs any employee in domestic service in a household shall pay such employee wages at a rate not less than the wage rate in effect under subsection (b) of this section, unless such employee's compensation for such service would not, as determined by the Secretary, constitute 'wages' under section 209 of the Social Security Act.

MAXIMUM HOURS

SEC. 7. (a) [(1) Except as otherwise provided in this section, no] *No* employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production

of goods for commerce, for a workweek longer than forty hours, unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

[(2) No employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this subsection by the amendments made to this Act by the Fair Labor Standards Amendments of 1966—

[(A) for a workweek longer than forty-four hours during the first year from the effective date of the Fair Labor Standards Amendments of 1966,

[(B) for a workweek longer than forty-two hours during the second year from such date, or

[(C) for a workweek longer than forty hours after the expiration of the second year from such date,

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.]

(b) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of that specified in such subsection without paying the compensation for overtime employment prescribed therein if such employee is so employed—

(1) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than one thousand and forty hours during any period of twenty-six consecutive weeks, or

(2) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board which provides that during a specified period of fifty-two consecutive weeks the employee shall be employed not more than two thousand two hundred and forty hours and shall be guaranteed not less than one thousand eight hundred and forty hours (or not less than forty-six weeks at the normal number of hours worked per week, but not less than thirty hours per week) and not more than two thousand and eighty hours of employment for which he shall receive compensation for all hours guaranteed or worked at rates not less than those applicable under the agreement to the work performed and for all hours in excess of the guaranty which are also in excess of the maximum work-week applicable to such employee under subsection (a) or two thousand and eighty in such period at rates not less than one and one-half times the regular rate at which he is employed; or

(3) by an independently owned and controlled local enterprise (including an enterpirse with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if—

(A) the annual gross volume of sales of such enterprise is less than $1,000,000 exclusive of excise taxes,

(B) more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and

(C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale,

and such employee receives compensation for employment in excess of forty hours in any workweek at a rate not less than one and one-half times the minimum wage rate applicable to him under section 6,

and if such employee receives compensation for employment in excess of twelve hours in any workday, or for employment in excess of fifty-six hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

[(e) For a period or periods of not more than ten workweeks in the aggregate in any calendar year, or fourteen workweeks in the aggregate in the case of an employer who does not qualify for the exemption in subsection (d) of this section, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection if such employee (1) is employed by such employer in an industry found by the Secretary to be of a seasonal nature, and (2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment by such employer in excess of fifty hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

[(d) For a period or periods of not more than ten workweeks in the aggregate in any calendar year, or fourteen workweeks in the aggregate in the case of an employer who does not qualify for the exemption in subsection (e) of this section, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection, if such employee—

[(1) is employed by such employer in an enterprise which is in an industry found by the Secretary—

[(A) to be characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of agricultural or horticultural commodities from farms if such industry is engaged in the handling, packing, preparing, storing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, or

[(B) to be of a seasonal nature and engaged in the handling, packing, storing, preparing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, and

[(2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment in excess of forty-eight hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.]

[(e)] (*c*) As used in this section the "regular rate" at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf of, the employee, but shall not be deemed to include—

(1) sums paid as gifts; payments in the nature of gifts made at Christmas time or on other special occasions, as a reward for service, the amounts of which are not measured by or dependent on hours worked, production, or efficiency;

(2) payments made for occasional periods when no work is performed due to vacation, holiday, illness, failure of the employer to provide sufficient work, or other similar cause; reasonable payments for traveling expenses, or other expenses, incurred by an employee in the furtherance of his employer's interests and properly reimbursable by the employer; and other similar payments to an employee which are not made as compensation for his hours of employment;

(3) sums paid in recognition of services performed during a given period if either, (a) both the fact that payment is to be made and the amount of the payment are determined at the sole discretion of the employer at or near the end of the period and not pursuant to any prior contract, agreement, or promise causing the employee to expect such payments regularly; or (b) the payments are made pursuant to a bona fide profit-sharing plan or trust or bona fide thrift or savings plan, meeting the requirements of the Secretary of Labor set forth in appropriate regulation which he shall issue, having due regard among other relevant factors, to the extent to which the amounts paid to the employee are determined without regard to hours of work, production, or efficiency; or (c) the payments are talent fees (as such talent fees are defined and delimited by regulations of the Secretary) paid to performers, including announcers, on radio and television programs;

(4) contributions irrevocably made by an employer to a trustee or third person pursuant to a bona fide plan for providing old-age, retirement, life, accident, or health insurance or similar benefits for employees;

(5) extra compensation provided by a premium rate paid for certain hours worked by the employee in any day or workweek because such hours are hours worked in excess of eight in a day or in excess of the maximum workweek applicable to such employee under subsection (a) or in excess of the employee's normal working hours or regular working hours, as the case may be;

(6) extra compensation provided by a premium rate paid for work by the employee on Saturdays, Sundays, holidays, or regular days of rest, or on the sixth or seventh day of the workweek, where such premium rate is not less than one and one-half times the rate established in good faith for like work performed in non-overtime hours on other days; or

(7) extra compensation provided by a premium rate paid to the employee, in pursuance of an applicable employment contract or collective-bargaining agreement, for work outside of the hours established in good faith by the contract or agreement as the basic, normal, or regular workday (not exceeding eight hours) or

workweek (not exceeding the maximum workweek applicable to such employee under subsection (a)), where such premium rate is not less than one and one-half times the rate established in good faith by the contract or agreement for like work performed during such workday or workweek.

[(f)](*d*) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under subsection (a) if such employee is employed pursuant to a bona fide individual contract, or pursuant to an agreement made as a result of collective bargaining by representatives of employees, if the duties of such employee necessitate irregular hours of work, and the contract or agreement (1) specifies a regular rate of pay not less than the minimum hourly rate provided in subsection (a) or (b) of section 6 (whichever may be applicable) and compensation at not less than one and one-half times such rate for all hours worked in excess of such maximum workweek and (2) provides a weekly guaranty of pay for more than sixty hours based on the rates so specified.

[(g)] (*e*) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under such subsection if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, the amount paid to the employee for the number of hours worked by him in such workweek in excess of the maximum workweek applicable to such employee under such subsection—

(1) in the case of an employee employed at piece rates, is computed at piece rates not less than one and one-half times the bona fide piece rates applicable to the same work when performed during nonovertime hours; or

(2) in the case of an employee performing two or more kinds of work for which different hourly or piece rates have been established, is computed at rates not less than one and one-half times such bona fide rates applicable to the same work when performed during nonovertime hours; or

(3) is computed at a rate not less than one and one-half times the rate established by such agreement or understanding as the basic rate to be used in computing overtime compensation thereunder: *Provided*, That the rate so established shall be authorized by regulation by the Secretary of Labor as being substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time;

and if (i) the employee's average hourly earnings for the workweek exclusive of payments described in paragraphs (1) through (7) of subsection [(e)] (*c*) are not less than the minimum hourly rate required by applicable law, and (ii) extra overtime compensation is properly computed and paid on other forms of additional pay required to be included in computing the regular rate.

[(h)] (*f*) Extra compensation paid as described in paragraphs (5), (6), and (7) of subsection [(e)] (*c*) shall be creditable toward overtime compensation payable pursuant to this section.

[(i)] (*g*) No employer shall be deemed to have violated subsection (a) by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if (1) the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable to him under section 6, and (2) more than half his compensation for a representative period (not less than one month) represents commissions on goods or services. In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.

[(j)] (*h*) No employer engaged in the operation of a hospital shall be deemed to have violated subsection (a) if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of fourteen consecutive days is accepted in lieu of the workweek of seven consecutive days for purposes of overtime computation and if, for his employment in excess of eight hours in any workday and in excess of eighty hours in such fourteen-day period, the employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed.

(*i*) *No State or political subdivision of a State shall be deemed to have violated subsection (a) with regard to any employee engaged in fire protection or law enforcement activities (including security personnel in correctional institutions) if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of twenty-eight consecutive days is accepted in lieu of the workweek of seven consecutive days for purposes of overtime computation and if the employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed for his employment in excess of—*

(*1*) *one hundred and ninety-two hours in each such twenty-eight day period during the first year from the effective date of the Fair Labor Standards Amendments of 1972;*

(*2*) *one hundred and eighty-four hours in each such twenty-eight day period during the second year from such date;*

(*3*) *one hundred and seventy-six hours in each such twenty-eight day period during the third year from such date;*

(*4*) *one hundred and sixty-eight hours in each such twenty-eight day period during the fourth year from such date;*

(*5*) *one hundred and sixty hours in each such twenty-eight day period thereafter.*

(*j*) *In the case of an employee of an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier, regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), in determining the hours of employment of such an employee to which the rate prescribed by subsection (a) applies there shall be excluded the hours such employee was employed in charter activities by such employer if (1) the employee's employment in such activities was pursuant to an agreement or understanding with his employer arrived at before engaging in such employment, and (2) if employ-*

ment in such activities is not part of such employee's regular employment.

WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 8. (a) The policy of this Act with respect to industries or enterprises in Puerto Rico and the Virgin Islands engaged in commerce or in the production of goods for commerce is to reach as rapidly as is economically feasible without substantially curtailing employment, the objective of the minimum wage prescribed in paragraph (1) of section 6(a) in each such industry. The Secretary of Labor shall from time to time convene an industry committee or committees, appointed pursuant to section 5, and any such industry committee shall from time to time recommend the minimum rate or rates of wages to be paid under section 6 by employers in Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands, engaged in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce in any such industry or classifications therein. Minimum rates of wages established in accordance with this section which are not equal to the minimum wage rate prescribed in paragraph (1) of section 6(a) shall be reviewed by such a committee once during each biennial period, beginning with the biennial period commencing July 1, 1958, except that the Secretary, in his discretion, may order an additional review during any such biennial period.

(b) Upon the convening of any such industry committee, the Secretary shall refer to it the question of the minimum wage rate or rates to be fixed for such industry. The industry committee shall investigate conditions in the industry and the committee, or any authorized subcommittee thereof, shall after due notice hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under this Act. The committee shall recommend to the Secretary the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico or in the Virgin Islands a competitive advantage over any industry in the United States outside of Puerto Rico and the Virgin Islands.

(c) The industry committee shall recommend such reasonable classifications within any industry as it determines to be necessary for the purpose of fixing for each classification within such industry the highest minimum wage rate (not in excess of that prescribed in paragraph (1) of section 6(a)) which (1) will not substantially curtail employment in such classification and (2) will not give a competitive, advantage to any group in the industry, and shall recommend for each classification in the industry the highest minimum wage rate which the committee determines will not substantially curtail employment in such classification. In determining whether such classifications should be made in any industry, in making such classifications, and in determining the minimum wage rates for such classifications, no classifications shall be made, and no minimum wage rate shall be fixed, solely on a regional basis, but the industry committee shall consider among other relevant factors the following:

(1) competitive conditions as affected by transportation, living, and production costs;

(2) the wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and

(3) the wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

No classification shall be made under this section on the basis of age or sex.

(d) The industry committee shall file with the Secretary a report containing its findings of fact and recommendations with respect to the matters referred to it. Upon the filing of such report, the Secretary shall publish such recommendations in the Federal Register and shall provide by order that the recommendations contained in such report shall take effect upon the expiration of 15 days after the date of such publication.

(e) Orders issued under this section shall define the industries and classifications therein to which they are to apply, and shall contain such terms and conditions as the Secretary finds necessary to carry out the purposes of such orders, to prevent the circumvention or evasion thereof, and to safeguard the minimum wage rates established therein.

(f) Due notice of any hearing provided for in this section shall be given by publication in the Federal Register and by such other means as the Secretary deems reasonably calculated to give general notice to interested persons.

ATTENDANCE OF WITNESSES

SEC. 9. For the purpose of any hearing or investigation provided for in this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (U.S.C., 1934 edition, title 15, secs. 49 and 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary of Labor and the industry committees.

COURT REVIEW

SEC. 10. (a) Any person aggrieved by an order of the Secretary issued under section 8 may obtain a review of such order in the United States Court of Appeals for any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within 60 days after the entry of such order a written petition praying that the order of the Secretary be modified or set aside in whole or in part. A copy of such petition shall forthwith be transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record of the industry committee upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order in whole or in part, so far as it is applicable to the petitioner. The review

by the court shall be limited to questions of law, and findings of fact by such industry committee when supported by substantial evidence shall be conclusive. No objection to the order of the Secretary shall be considered by the court unless such objection shall have been urged before such industry committee or unless there were reasonable grounds for failure so to do. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence may materially affect the result of the proceeding and that there were reasonable grounds for failure to adduce such evidence in the proceedings before such industry committee, the court may order such additional evidence to be taken before an industry committee and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. Such industry committee may modify the initial findings by reason of the additional evidence so taken, and shall file with the court such modified or new findings which if supported by substantial evidence shall be conclusive, and shall also file its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(b) The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the Secretary's order. The court shall not grant any stay of the order unless the person complaining of such order shall file in court an undertaking with a surety or sureties satisfactory to the court for the payment to the employees affected by the order, in the event such order is affirmed, of the amount by which the compensation such employees are entitled to receive under the order exceeds the compensation they actually receive while such stay is in effect.

INVESTIGATIONS, INSPECTIONS, RECORDS, AND HOMEWORK REGULATIONS

SEC. 11 (a) The Secretary of Labor or his designated representatives may investigate and gather data regarding the wages, hours, and other conditions and practices of employment in any industrial subject to this Act, and may enter and inspect such places and such records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate to determine whether any person has violated any provision of this Act, or which may aid in the enforcement of the provisions of this Act. Except as provided in section 12 and in subsection (b) of this section, the Secretary shall utilize the bureaus and divisions of the Department of Labor for all the investigations and inspections necessary under this section. Except as provided in section 12, the Secretary shall bring all actions under section 17 to restrain violations of this Act.

(b) With the consent and cooperation of State agencies charged with the administration of State labor laws, the Secretary of Labor may, for the purpose of carrying out his functions and duties under this Act, utilize the services of State and local agencies and their employees and, notwithstanding any other provision of law, may reimburse such State and local agencies and their employees for services rendered for such purposes.

(c) Every employer subject to any provision of this Act or of any order issued under this Act shall make, keep, and preserve such records of the persons employed by him and of the wages, hours, and other conditions and practices of employment maintained by him, and shall preserve such records for such periods of time, and shall make such reports therefrom to the Secretary as he shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this Act or the regulations or orders thereunder.

(d) The Secretary is authorized to make such regulations and orders regulating, restricting, or prohibiting industrial homework as are necessary or appropriate to prevent the circumvention or evasion of and to safeguard the minimum wage rate prescribed in this Act, and all existing regulations or orders of the Administrator relating to industrial homework are hereby continued in full force and effect.

CHILD LABOR PROVISIONS

SEC. 12. (a) No producer, manufacturer, or dealer shall ship or deliver for shipment in commerce any goods produced in an establishment situated in the United States in or about which within thirty days prior to the removal of such goods therefrom any oppressive child labor has been employed: *Provided*, That any such shipment or delivery for shipment of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer, manufacturer, or dealer that the goods were produced in compliance with the requirements of this section, and who acquired such goods for value without notice of any such violation, shall not be deemed prohibited by this subsection: *And provided further*, That a prosecution and conviction of a defendant for the shipment or delivery for shipment of any goods under the conditions herein prohibited shall be a bar to any further prosecution against the same defendant for shipments or deliveries for shipment of any such goods before the beginning of said prosecution.

(b) The Secretary of Labor, or any of his authorized representatives, shall make all investigations and inspections under section 11(a) with respect to the employment of minors, and, subject to the direction and control of the Attorney General, shall bring all actions under section 17 to enjoin any act or practice which is unlawful by reason of the existence of oppressive child labor, and shall administer all other provisions of this Act relating to oppressive child labor.

(c) No employer shall employ any oppressive child labor in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce.

(d) In order to carry out the objectives of this section, the Secretary may by regulation require employers to obtain from any employee proof of age.

EXEMPTIONS

SEC. 13. (a) The provisions of [sections 6 and 7] *section 6 (other than section 6(d) in the case of paragraph (1) of this subsection) and section 7* shall not apply with respect to—

(1) any employee employed in a bona fide executive, administrative, or professional capacity (including any employee em-

ployed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act [, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities)]; or

(2) any employee employed by any retail or service establishment (except an establishment or employee engaged in laundering, cleaning, or repairinig elothing or fabrics or an establishment engaged in the operation of a hospital, institution, or school described in section 3(s)(4)), if more than 50 per centum of such establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, and such establishment is not in an enterprise described in section 3(s) [or such establishment has an annual dollar volume of sales which is less than $250,000 (exclusive of excise taxes at the retail level which are separately stated)]. A "retail or service establishment" [shall mean] *means* an establishment 75 per centum of whose annual dollar volume of sales of goods or services or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

(3) any employee employed by an establishment which is an amusement or recreational establishment, if (A) it does not operate for more than seven months in any calendar year, or (B) during the preceding calendar year, its average receipts for any six months of such year were not more than 33⅓ per centum of its average receipts for the other six months of such year; or

[(4) any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided*, That more than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or]

[(5)] (*4*) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee; or

[(6)] (*5*) any employee employed in agriculture (A) if such employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred man-days of agricultural labor, (B) if such

employee is the parent, spouse, child, or other member of his employer's immediate family, [(C) if such employee (i) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) commutes daily from his permanent residence to the farm on which he is so employed, and (iii) has been employed in agriculture less than thirteen weeks during the preceding calenday year, (D)] *(C)* if such employee [(other than an employee described in clause (C) of this subsection)] (i) is sixteen years of age or under and is employed as a hand harvest laborer, is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) is employed on the same farm as his parent or person standing in the place of his parent, and (iii) is paid at the same piece rate as employees over age sixteen are paid on the same farm, or [(E)] *(D)* if such employee is principally engaged in the range production of livestock; or

[(7)] *(6)* any employee to the extent that such employee is exempted by regulations, order or certificate of the Secretary issued under section 14; or

[(8)] *(7)* any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where published or counties contiguous thereto; or

[(9) any employee employed by an establishment which is a motion picture theater; or]

[(10)] *(8)* any switchboard operator employed by an independently owned public telephone company which has not more than seven hundred and fifty stations; or

[(11) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed $500 a month; or]

[(12)] *(9)* any employee employed as a seaman on a vessel other than an American vessel [; or].

[(13) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight; or

[(14) any agricultural employee employed in the growing and harvesting of shade-grown tobacco who is engaged in the processing (including, but not limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling) of such tobacco, prior to the stemming process, for use as cigar wrapper tobacco.]

(b) The provisions of section 7 shall not apply with respect to—

(1) any employee with respect to whom the Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

(2) any employee of an employer *engaged in the operation of a common carrier by rail and* subject to the provisions of part 1 of the Interstate Commerce Act; or

(3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or

[(4) any employee employed in the canning, processing, marketing, freezing, curing, storing, packing for shipment, or distributing of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof; or]

[(5)] (*4*) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or

[(6)] (*5*) any employee employed as a seaman; or

[(7)] (*6*) any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier, [if the rates and services of such railway or carrier are subject to regulation by a State or local agency] (*regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit*), *and if such employee receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed;* or

[(8)] (*7*) (*A*) any employee *who is* employed by an establishment which is a hotel, motel, or restaurant *and receives compensation at a rate not less than one and one-half times the regular rate at which he is employed for his employment in excess of* (*i*) *forty-eight hours in any workweek during the first year from the effective date of the Fair Labor Standards Amendments of 1972,* (*ii*) *forty-six hours in any workweek thereafter or* (*B*) any employee who [(A)] is employed by an establishment which is an institution (other than a hospital) primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises, and [(B)] receives [compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed; or] *compensation at a rate not less than one and one-half times the regular rate at which he is employed for his employment in excess of* (*i*) *forty-eight hours in any workweek during the first year from the effective date of the Fair Labor Standards Amendments of 1972,* (*ii*) *forty-six hours in any workweek during the second year from the effective date of the Fair Labor Standards Amendments of 1972, and* (*iii*) *forty-four hours in any workweek thereafter; or*

[(9)] (*8*) any employee employed as an announcer, news editor, or chief engineer by a radio or television station the major studio of which is located (A) in a city or town of one hundred thousand population or less, according to the latest available decennial census figures compiled by the Bureau of the Census,

except where such city or town is part of a standard metropolitan statistical area, as defined and designated by the Bureau of the Budget, which has a total population in exeess of one hundred thousand, or (B) in a city or town of twenty-five thousand population or less, which is part of such an area but is at least 40 airline miles from the principal city in such area; or

[(10)] (*9*) any salesman, partsman, or mechanic primarily engaged in selling or servicing [automobiles, trailers, trucks,] farm implements [, or aircraft] *or any salesman primarily engaged in selling automobiles, trailers or trucks* if employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles to ultimate purchasers; or

[(11)] (*10*) any employee employed as a driver or drivers' helper making local deliveries, who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the Secretary shall find that such plan has the general purpose and effect of reducing hours worked by such employees to, or below, the maximum workweek applicable to them under section 7(a); or

[(12)] (*11*) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a sharecrop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

[(13)] (*12*) any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (A) is primarily employed during his workweek in agriculture by such farmer, and (B) is paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a)(1); or

[(14)] (*13*) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm if no more than five employees are employed in the establishment in such operations; or

[(15)] (*14*) any employee engaged in [ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities, or in] the processing of [sugar beets, sugar beet molasses, sugarcane, or] maple sap into sugar (other than refined sugar) or syrup; or

[(16)] (*15*) any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the same State, or (B) in transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables; or

[(17)] (*16*) any driver employed by an employer engaged in the business of operating taxicabs; or

[(18)] (*17*) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees or to members or guests of members of clubs, *and if such employee receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed; or*

[(19)] (*18*) any employee of a bowling establishment if such employee receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed[.] *; or*

(*19*) *any employee who in any workweek is employed in domestic service in a household;* or

(*20*) *any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight; or*

(*21*) *any employee employed by an owner of an apartment building or by a management agent on behalf of the owner: Provided, That* (*A*) *such employee resides in that apartment building and* (*B*) *the gross annual rentals of such building are less than the annual gross volume of sales for an enterprise specified in section 3*(*s*) *of this act; or*

(*22*) *any employee who is employed with his spouse by a nonprofit educational institution to serve as the parents of children—*

(*A*) *who are orphans or one of whose natural parents is deceased, and*

(*B*) *who are enrolled in such institution and reside in residential facilities of the institution, while such children are in residence at such institution, if such employee and his spouse reside in such facilities, receive, without cost, board and lodging from such institution, and are together compensated, on a cash basis, at an annual rate of not less than $10,000,*

(*23*) *Any employee of an employer primarily engaged in the wholesale business of drycleaning clothing or fabrics who customarily works irregular hours in performing pickups or delivery services directly for establishments offering drycleaning services to the public, and if more than one-half of his or her annual compensation represents commissions based on the performance of such services.*

(c) (1) Except as provided in paragraph (2), the provisions of section 12 relating to child labor shall not apply [with respect] to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed *if such employee—*

(*A*) *is employed by his parent, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or*

(*B*) *is fourteen years of age or older, or*

(C) is twelve years of age or older, and (i) such employment is with the written consent of his parent or person standing in place of his parent, or (ii) his parent or person standing in place of his parent is employed on the same farm.

(2) The provisions of section 12 relating to child labor shall apply to an employee below the age of sixteen employed in agriculture in an occupation that the Secretary of Labor finds and declares to be particularly hazardous for the employment of children below the age of sixteen, except where such employee is employed by his parent or by a person standing in the place of his parent on a farm owned or operate . by such parent or person.

(3) The provisions of section 12 relating to child labor shall not apply to any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions.

(d) *(1)* (*A*) The provisions of sections 6, 7, and 12 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer, and (*B*) *the provisions of section 12 shall not apply with respect to any such employee when engaged in the delivery to households or consumers of shopping news (including shopping guides, handbills, or other types of advertising material) published by any weekly, semiweekly, or daily newspaper.*

(2) The provisions of sections 6, 7, and 12 shall not apply with respect to any homeworker engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths).

(e) The provisions of section 7 shall not apply with respect to employees for whom the Secretary of Labor is authorized to establish minimum wage rates as provided in section 6(a)(3), except with respect to employees for whom such rates are in effect; and with respect to such employees the Secretary may make rules and regulations providing reasonable limitations and allowing reasonable variations, tolerances, and exemptions to and from any or all of the provision of section 7 if he shall find, after a public hearing on the matter, and taking into account the factors set forth in section 6(a)(3), that economic conditions warrant such action.

(f) The provisions of sections 6, 7, 11, and 12 shall not apply with respect to any employee whose services during the workweek are performed in a workplace within a foreign country or within territory under the jurisdiction of the United States other than the following: a State of the United States; the District of Columbia; Puerto Rico; the Virgin Islands: Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (ch. 345, 67 Stat. 462); American Samoa; Guam; Wake Island: Eniwetok Atoll: Kwajalein Atoll: Johnston Island; and the Canal Zone.

NOTE.—Section 13(b)(7) is further changed effective during the second year following enactment of the Fair Labor Standards Amendments of 1972 and repealed thereafter.

(Effective during the Second year following enactment)

EXEMPTIONS

SEC. 13. (a) * * *
(b) * * *
(1) * * *

* * * * * * *

(7) any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency and if such employee receives compensation for employment in excess of [forty-eight] *forty-four* hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed; or

(Effective during the Third year following enactment and thereafter)

EXEMPTIONS

SEC. 13. (a) * * *
(b) * * *
(1) * * *

* * * * * * *

[(7) any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency and if such employee receives compensation for employment in excess of forty-four hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed; or]

NOTE.—Section 13(b)(18) is further changed effective during the second year following enactment of the Fair Labor Standards Amendments of 1972 and repeal thereafter.

(Effective during the Second year following enactment)

EXEMPTIONS

SEC. 13. (a) * * *
(b) * * *
(1) * * *

* * * * * * *

(18) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs, and if such employee receives compensation for employment in excess of [forty-eight] *forty-four* hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed;

(Effective during the Third year following enactment and thereafter)

EXEMPTIONS

SEC. 13. (a) * * *
(b) * * *
(1) * * *

* * * * * * *

[(18) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs, and if such employee receives compensation for employment in excess of forty-four hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed;]

NOTE.—Section 13(b)(19) is further changed effective during the second year following enactment of the Fair Labor Standards Amendments of 1972 and repealed thereafter

(Effective during the Second year following enactment)

EXEMPTIONS

SEC. 13. (a) * * *
(b) * * *
(1) * * *

* * * * * * *

(19) any employee of a bowling establishment if such employee receives compensation for employment in excess of [forty-eight] *forty-four* hours in any workweek at a rate not less than one and one-half the regular rate at which he is employed; or

(Effective during the Third year following enactment and thereafter)

EXEMPTIONS

SEC. 13. (a) * * *
(b) * * *
(1) * * *

* * * * * * *

[(19) any employee of a bowling establishment if such employee receives compensation for employment in excess of forty-four hours in any workweek at a rate not less than one and one-half the regular rate at which he is employed; or]

LEARNERS, APPRENTICES, STUDENTS, AND HANDICAPPED WORKERS

SEC. 14. (a) The Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for the employment of learners, of apprentices, and of messengers employed primarily in delivering letters and messages, under special certificates issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 6 and subject to such limitations as to time, number, proportion, and length of service as the Secretary shall prescribe.

(b) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment of full-time students, regardless of age but in compliance with applicable child labor laws, on a part-time basis in retail or service establishments *or educational institutions* (not to exceed twenty hours in any workweek) or on a part-time or a full-time basis in such establishments during school vacations under special certificates issued pursuant to regulations of the Secretary, at a wage rate not less than 85 per centum of the minimum wage applicable under section 6, except that the proportion of student hours of employment to total hours of employment of all employees in any establishment *or an educational institution* may not exceed (1) such proportion for the corresponding month of the twelve-month period preceding May 1, 1961, (2) in the case of a retail or service establishment *or an educational institution* whose employees (other than employees engaged in commerce or in the production of goods for commerce) are covered by this Act for the first time on or after the effective date of the Fair Labor Standards Amendments of 1966, *and the Fair Labor Standards Amendments of 1972*, such proportion for the corresponding month of the twelve-month period immediately prior to such *applicable* date, or (3) in the case of a retail or service establishment *or an educational institution* coming into existence after May 1, 1961, or a retail or service establishment *or an educational institution* for which records of student hours worked are not available, a proportion of student hours of employment to total hours of employment of all employees based on the practice during the twelve-month period preceding May 1, 1961, in (A) similar establishments *or educational institu-*

tions of the same employer in the same general metropolitan area in which the new establishment *or an educational institution* is located, (B) similar establishments of the same employer in the same or nearby counties if the new establishment *or an education institution* is not in a metropolitan area, or (C) other establishments *or educational institutions* of the same general character operating in the community or the nearest comparable community. Before the Secretary may issue a certificate under this subsection he must find that such employment will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under this subsection.

(c) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by certificate or order provide for the employment of full-time students, regardless of age but in compliance with applicable child labor laws, on a part-time basis in agriculture (not to exceed twenty hours in any workweek) or on a part-time or a full-time basis in agriculture during school vacations, at a wage rate not less than 85 per centum of the minimum wage applicable under section 6. Before the Secretary may issue a certificate or order under this subsection he must find that such employment will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under this subsection.

(d) (1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, the Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment under special certificates of individuals (including individuals employed in agriculture) whose earning or productive capacity is impaired by age or physical or mental deficieney or injury, at wages which are lower than the minimum wage applicable under section 6 of this Act but not less than 50 per centum of such wage and which are commensurate with those paid nonhandicapped workers in industry in the vicinity for essentially the same type, quality, and quantity of work.

(2) The Secretary, pursuant to such regulations as he shall prescribe and upon certification of the State agency administering or supervising the administration of vocational rehabilitation services, may issue special certificates for the employment of—

(A) handicapped workers engaged in work which is incidental to training or evaluation programs, and

(B) multihandicapped individuals and other individuals whose earning capacity is so severely impaired that they are unable to engage in competitive employment,

at wages which are less than those required by this subsection and which are related to the worker's productivity.

(3) (A) The Secretary may by regulation or order provide for the employment of handicapped clients in work activities centers under special certificates at wages which are less than the minimums applicable under section 6 of this Act or prescribed by paragraph (1) of this subsection and which constitute equitable compensation for such clients in work activities centers.

(B) For purposes of this section, the term "work activties centers" shall mean centers planned and designed exclusively to provide

therapeutic activities for handicapped clients whose physical or mental impairment is so severe as to make their productive capacity inconsequential.

PROHIBITED ACTS

SEC. 15. (a) After the expiration of one hundred and twenty days from the date of enactment of this Act, it shall be unlawful for any person—

(1) to transport, offer for transportation, ship, deliver, or sell in commerce, or to ship, deliver, or sell with knowledge that shipment or delivery or sale thereof in commerce is intended, any goods in the production of which any employee was employed in violation of section 6 or section 7, or in violation of any regulation or order of the Secretary of Labor issued under section 14; except that no provision of this Act shall impose any libality upon any common carrier for the transportation in commerce in the regular course of its business of any goods not produced by such common carrier, and no provision of this Act shall excuse any common carrier from its obligation to accept any goods for transportation; and except that any such transportation, offer, shipment, delivery, or sale of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer that the goods were produced in compliance with the requirements of the Act, and who acquired such goods for value without notice of any such violation, shall not be deemed unlawful;

(2) to violate any of the provisions of section 6 or section 7, or any of the provisions of any regulation or order of the Secretary issued under section 14;

(3) to discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding, or has served or is about to serve on an industry committee;

(4) to violate any of the provisions of section 12;

(5) to violate any of the provisions of section 11(c) or any regulation or order made or continued in effect under the provisions of section 11(d), or to make any statement, report, or record filed or kept pursuant to the provisions of such section or of any regulation or order thereunder, knowing such statement, report, or record to be false in a material respect.

(b) For the purposes of subsection (a)(1) proof that any employee was employed in any place of employment where goods shipped or sold in commerce were produced, within ninety days prior to the removal of the goods from such place of employment, shall be prima facie evidence that such employee was engaged in the production of such goods.

PENALTIES

SEC. 16. (a) Any person who willfully violates any of the provisions of section 15 shall upon conviction thereof be subject to a fine of not more than $10,000, or to imprisonment for not more than six months, or both. No person shall be imprisoned under this subsection except

for an offense committed after the conviction of such person for a prior offense under this subsection.

(b) Any employer who violates the provisions of section 6 or section 7 of this Act shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, as the case may be, and in an additional equal amount as liquidated damages. Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection.

(c) The Secretary [of Labor] is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 6 or [section] 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. [When a written request is filed by any employee with the Secretary claiming unpaid minimum wages or unpaid overtime compensation under section 6 or section 7 of this Act, the] *The* Secretary may bring an action in any court of competent jurisdiction to recover the amount of [such claim: *Provided*, That this authority to sue shall not be used by the Secretary in any case involving an issue of law which has not been settled finally by the courts, and in any such case no court shall have jurisdiction over such action or proceeding initiated or brought by the Secretary if it does involve any issue of law not so finally settled] *the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages.* The consent of any employee to the bringing of any such action by the Secretary, unless such action is dismissed without prejudice on motion of the Secretary, shall constitute a waiver by such employee of any right of action he may have under subsection (b) of this section for such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. Any sums thus recovered by the Secretary on behalf of an employee pursuant to this subsection shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sums not paid to an employee because of inability to do so within a period of

three years shall be covered into the Treasury of the United States as miscellaneous receipts. In determining when an action is commenced by the Secretary under this subsection for the purposes of the statutes of limitations provided in section 6(a) of the Portal-to-Portal Act of 1947, it shall be considered to be commenced in the case of any individual claimant on the date when the complaint is filed if he is specifically named as a party plaintiff in the complaint, or if his name did not so appear, on the subsequent date on which his name is added as a party plaintiff in such action.

(d) In any action or proceeding commenced prior to, on, or after the date of enactment of this subsection, no employer shall be subject to any liability or punishment under this Act or the Portal-to-Portal Act of 1947 on account of his failure to comply with any provision or provisions of such Acts (1) with respect to work heretofore or hereafter performed in a workplace to which the exemption in section 13(f) is applicable, (2) with respect to work performed in Guam, the Canal Zone or Wake Island before the effective date of this amendment of subsection (d), or (3) with respect to work performed in a possession named in section 6(a)(3) at any time prior to the establishment by the Secretary, as provided therein, of a minimum wage rate applicable to such work.

(e) Any person who violates the provisions of section 12, relating to child labor, or any regulation issued under that section, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. Any such civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

INJUNCTION PROCEEDINGS

SEC. 17. The district courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15, including in the case of violations of section 15(a)(2) the restraint of any withholding of payment of minimum wages or overtime compensation found by the court to be due to employees under this Act (except sums which employees are barred from recovering, at the time of the commencement of the action to restrain the violations, by virtue of the provisions of section 6 of the Portal-to-Portal Act of 1947).

RELATION TO OTHER LAWS

SEC. 18. (a) No provision of this Act or of any order thereunder shall excuse noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this Act or a maximum workweek lower than the maximum workweek established under this Act, and no provision of this Act relating to the employment of child labor shall justify noncompliance with any Federal or State law or municipal ordinance

establishing a higher standard than the standard established under this Act. No provision of this Act shall justify any employer in reducing a wage paid by him which is in excess of the applicable minimum wage under this Act, or justify any employer in increasing hours of employment maintained by him which are shorter than the maximum hours applicable under this Act.

(b) Notwithstanding any other provision of this Act (other than section 13(f)) or any other law—

(1) any Federal employee in the Canal Zone engaged in employment of the kind described in section 5102(c)(7) of title 5, United States Code, or

(2) any employee employed in a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces,

shall have his basic compensation fixed or adjusted at a wage rate which is not less than the appropriate wage rate provided for in section [6(a)(1)] *6(a)* of this Act (except that the wage rate provided for in section 6(b) shall apply to any employee who performed services during the workweek in a work place within the Canal Zone, and shall have his overtime compensation set at an hourly rate not less than the overtime rate provided for in section [7(a)(1)] *7(a)* of this Act.

SEPARABILITY OF PROVISIONS

SEC. 19. If any provision of this Act or the application of such provision to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

OTHER LAWS AMENDED

Section 12(a)(2) of the Emergency Employment Act of 1971

§ 12. Special Provisions

(a) The Secretary shall not provide financial assistance for any program or activity under this Act unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) * * *

(2) persons employed in public service jobs under this Act shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if [section 6(a)(1)] *section 6* of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar public occupations by the same employer; * * *

Section 11 of the Age Discrimination in Employment Act of 1967

DEFINITIONS

SEC. 11. For the purposes of this Act—

(a) * * *

(b) The term "employer" means a person engaged in an industry affecting commerce who has twenty-five or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year: *Provided*, That prior to June 30, 1968, employers having fewer than fifty employees shall not be considered employers. [The term also means any agent of such a person, but such term does not include the United States, a corporation wholly owned by the Government of the United States, or a State or political subdivision thereof.] *The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, but such term does not include the United States, or a corporation wholly owned by the Government of the United States.*

(c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer and includes an agent of such a person; but shall not include an agency of the United States [or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the systems of State and local employment services receiving Federal assistance.]

Section 14 of the Age Discrimination in Employment Act of 1967

FEDERAL-STATE RELATIONSHIP

SEC. 14. (a) Nothing in this Act shall affect the jurisdiction of any agency of any State performing like functions with regard to discriminatory employment practices on account of age exeept that upon commencement of action under this Act such action shall supersede any State action.

(b) In the case of an alleged unlawful practice occurring in a State which has a law prohibiting discrimination in employment because of age and establishing or authorizing a State authority to grant or seek relief from such discriminatory practiee, no suit may be brought under section 7 of this Aet before the expiration of sixty days after proceedings have been commenced under the State law, unless such proceedings have been earlier terminated: *Provided*, That such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State law. If any requirement for the commeneement of such proceedings is imposed by a State authority other than a requirement of the filing of a written and signed statement of the facts upon which the proeeeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State authority.

NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

SEC. 15. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other

than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, of the Government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken or any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

(c) Any persons aggrieved may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any indivdual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law.

Section 15 of the Age Discrimination in Employment Act of 1967

EFFECTIVE DATE

SEC. [15] *16.* This Act shall become effective one hundred and eighty days after enactment, except (a) that the Secretary of Labor may extend the delay in effective date of any provision of this Act up to an additional ninety days thereafter if he finds that such time is necessary in permitting adjustments to the provisions hereof, and (b) that on or after the date of enactment the Secretary of Labor is authorized to issue such rules and regulations as may be necessary to carry out its provisions.

Section 16 of the Age Discrimination in Employment Act of 1967

APPROPRIATIONS

SEC. [16] *17.* There are hereby authorized to be appropriated such sums, not in excess of $3,000,000 for any fiscal year, as may be necessary to carry out this Act.

MINORITY VIEWS OF MR. TAFT FOR HIMSELF, AND MESSRS. DOMINICK AND PACKWOOD

We all desire to see the elimination of substandard and exploitive wage practices. But at a time when millions of American workers are out of work, unemployment must be a primary concern. At a time when low income families are hard pressed by inflation, this too must be a concern. Unfortunately, the Committee has developed an approach which seems likely to make job opportunities more difficult for the poor, for the young, and for those who have found it difficult to enter the mainstream of the American economy.

An excessive increase in the minimum wage at this time would increase the inflationary pressures on our economy at the very time when we are succeeding in attempts to curb the inflationary spiral. While an increase in wage levels for those in the lowest paid categories might not of itself have a major inflationary effect, an increase in the minimum wage seems bound to have a ripple effect throughout the economy which will have a substantial economic impact.

Moreover to broaden coverage at this time would have a like effect and also increase costs through red tape, reporting, and increased Federal interference into State, local and household affairs.

For those who are desperately poor, family assistance is a more desirable approach than the minimum wage law. As Congressman John Anderson of Illinois aptly stated on the floor of the House on May 8:

> The primary reason that the working poor are poor is not at bottom entirely, or even mainly, a matter of inadequate hourly wage rates. Far more important is first, the lack of full time job opportunities, and secondly, in the case of more than half the working poor, the fact of relatively great income needs because of large families. Clearly, the minimum wage is too blunt an instrument to deal with the great complexity and variety of the income deficiency problem that we find among the working poor. The reason for this is simply that it is geared to wage earners rather than family units.

Unfortunately, the consideration of the bill has not been careful. The Committee's efforts have been so far-reaching and misguided that Vista workers, clerics, prisoners working in prison industries, and similar cases, were blanketed into coverage until moments before the bill was ordered reported. The Committee has taken such a broad brush approach that it seems likely to frustrate the hope for any moderate increase in the minimum wage for those now covered. For that reason we join with Senator Beall in offering a substitute amend-

ment, similar to the House passed measure. Some of our specific objections to the Committee bill are as follows:

A—DOMESTIC HELP

While the Committee correctly continues to exempt small businesses, it proposes to cover a housewife who occasionally has someone come in to help wash the windows or clean up. It seems utterly nonsensical to exclude small businessmen on the one hand, and then require housewives without any business experience to comply with record-keeping and other provisions of this law. In doing so we are likely to make a mockery of the law and invite its violation. As we all know, tax and reporting violations are rife under the Social Security law as it applies to domestic help, and avoidance practices are widespread. The Committee now proposes to compound that problem and make it worse.

Because some domestic workers are poorly paid, is no reason to bring the Federal bureaucracy into the kitchen of the American housewife. Because others are marginally employed is no reason to eliminate their employment.

Quite apart from this practical consideration, we believe that an extension of coverage to domestic help is beyond the power of Congress under the commerce clause. If domestic employees who make beds, dust, and wash windows in a private residence are engaged in interstate commerce, there is nothing left of intrastate activities. If someone who vacuums your carpet is engaged in interstate commerce or is considered to have a substantial impact on interstate commerce, then the commerce clause has been magnified to include every aspect of American life. We do not believe that this was the intent of the drafters of our Constitution, nor do we believe that it is a workable proposition supported by case law.

The basic argument of those who favor this expansive interpretation of the commerce clause seems to be that the number of domestic employees is so large that they collectively have a very significant impact on the national economy. It is argued that domestic help have an impact of more than $1 billion per year on our national economy, and that they use cleaning fluids purchased through the channels of interstate commerce.

A legal precedent here is the fact that the medical profession, which has a far greater impact on our nation's economy, has been held to be beyond the constitutional power of Congress under the commerce clause. If the practice of medicine, which involves more than $14 billion per year, is beyond the sweep of the commerce clause, certainly domestic helpers and housekeepers, having a much lesser impact, should be similarly excluded.

In *U.S.* v. *Oregon State Medical Society*, 95 F. Supp. 103 (D. Ore. 1950), defendant medical socoieties were charged with conspiracy to monopolize prepaid medical care in the State of Oregon. At page 118, the court said:

> The practice of medicine as conducted within the State of Oregon by doctors of Oregon, including defendants, is not trade or commerce within the meaning of Section 1 of the Sherman Anti-Trust Law . . . nor is it commerce within the meaning of the constitutional grant of power to Congress "to regulate commerce * * * among the several states."

This decision was affirmed by the U.S. Supreme Court, 343 U.S. 326 (1952).

B—STATE AND LOCAL GOVERNMENT EMPLOYEES

Section 2(a) extends coverage under the Fair Labor Standards Act to employees of states and their political subdivisions. In Section 2(b) the term "employee" is defined to include those state and local employees who hold positions comparable to Federal employees "in the competitive service and employees in the U.S. Postal Service, the Postal Rate Commission, and the Library of Congress . . ."

This definition is illustory at best. It was dreamed up in later executive sessions. It appears, however, that the Federal government will be determining even the wages and overtime to be paid to youth employed by a city in its recreation department. This would include young people employed as lifeguards, employed to teach basket-weaving, and employed to umpire little league baseball games. If a city decides to hire disadvantaged young people to work in its parks during the summer, these employees would apparently be subject to the full force of the provisions of the Fair Labor Standards Act.

This approach not only interferes with the ability of cities to provide jobs for the disadvantaged, but it also entirely overlooks the regional differences with respect to the welfare needs and the cost of living. In March of 1970, the percentage of state and local non-supervisory employees (excluding education and hospital institutions who are already covered) receiving less than $2.00 per hour was as follows:

	Percent
Northeast region	5.9
South region	22.2
North Central region	10.4
West region	5.9

In addition, this bill overlooks the differential between metropolitan and non-metropolitan areas. In March of 1970, only 7.9% of local governmental non-supervisory employees (excluding education and hospital institutions) were paid less than $2.00 per hour. But in non-metropolitan areas the percentage was 22.6. The difference obviously represents different standards and costs of living.

The variety of state and local governmental employees affected by this law and the extent to which they differ by state and region is illustrated by the following charts also prepared by the U.S. Department of Labor and submitted to the Congress in 1971.

Occupations in State, county and city governments with entrance level rates of less than $1.60 an hour, by region, 1969 or 1970

Region, State and government jurisdiction:	Occupation
Northeast	
New Jersey: Cities	Recreation leader.
New York: Counties	Cytologist I trainee.
South	
Alabama:	
State	Clerical aid, clerk messenger, dock sweeper, domestic worker, food service worker, forest towerman, human services aide, laborer, laundry worker.
Cities	Clerk, janitor, lineman helper, maintenance foreman, maintenance worker, mason, playground director, recreation leader, snack bar attendant.
Arkansas: State	Clerk, cook, custodial worker, dairyman, deckhand, elevator operator, farmworker, fish culturist, food service worker, forest towerman, foster grandparents, groundskeeper, highway bridge tender, housekceper, keypunch operator trainee, laborer, laboratory aide, laundry worker, library aide, linen room worker, messenger, medical assistant, mental retardation aide, museum guide, public health clinic aide, revenue permit agent, seamstress, skill trades helper, social service aide, stock clerk, switchboard operator, trapper, watchman.
Florida: Cities	Elevator operator, fountain clerk, library aide, locker attendant.
Georgia: State	Automotive serviceman, community worker, farm and dairy hand, field inspector I, home service aide, institutional trainee, institutional worker, laboratory aide I, maid, maintenance laborer I, sales clerk, seamstress I, utility worker I.
Kentucky: Cities	Account clerk, ambulance driver, assistant dispatcher, attendant, automotive serviceman, bookkeeping machine operator, bookmender, cashier, clerical aide, clerk, central supply technician, cook, costumer, custodial supervisor, custodial worker, dental assistant, dietitian assistant, dispatcher, doorkeeper, duplicating machine operator, elevator operator, engineering alde, equipment operator, food service worker, housing laborer, inhalation therapy technician, laborer, laundry worker, library radio operator, maintenance fireman, maintenance mechanic, maintenance worker, medical technician assistant, museum assistant, personnel clerk, physical therapy aide, police court matron, police court officer, public facilities attendant, public health laborer, radio repairman, sanitary inspector, stationary fireman, seamstress, stenographer clerk, store keeper, telephone operator, traffic control officer, typist clerk, watchman.

Occupations on State, county and city governments with entrance level rates of less than $1.60 an hour, by region, 1969 or 1970—Continued

Region, State and government jurisdiction:	Occupation
South—Continued	
Louisiana:	
State	Bridge tender, central service worker, community activity worker, custodial worker, elevator operator, food service worker, forest fireman, laundry worker, public health unit aide watchman.
Cities	Building guide, clerk, custodial worker, elevator operator, garage attendant, home health aide, industrial school worker, institution aide, laboratory animal care taker, laboratory technical assistant, laborer, laborer utility, library page, meter repairman, musician, park attendant, parking attendant, pest control worker, recreation attendant, seamstress, stock clerk, stock patrol helper, test checker.
Counties	Ceramics pourer, custodial worker, messenger.
Maryland:	
Cities	Cashier—cafeteria, cook's helper, custodial worker, food service helper, head janitress (museum).
Counties	Recreation leader.
Mississippi: State	Homemaker.
Oklahoma: State	Assistant multilith machine operator, bindery worker, building guide, capitol policeman, cashier—dining room, central service worker, clerk trainee, clothing clerk, cook trainee, custodial worker, dictating machine operator, duplicating equipment operator trainee, elevator operator, employment aide, farmhand, food service worker, highway maintenance man, home health aide, janitor, job corps recruiter, laboratory manual helper, laborer, laundry worker, manual helper, marking room clerk, park attendant, patrolman, psychiatric attendant, rental sales clerk, room clerk, seamstress, security attendant, security officer, seed analyst, tourist interviewer, typist trainee, utility office worker.
Cities	Playground leader, tennis instructor.
Texas: Cities	Clerical aide, clerk, clerk-typist, clinic assistant, dental health education aide, health aide, health education aide, laboratory aide, messenger, museum custodial, sanitation aide, technician-criminal investigation laboratory.
West Virginia:	
State	Case aide, clerk, eligibility aide, embossing equipment operator, food service helper, handyman, home health aide, homemaker, housekeeper, institutional aide, laboratory assistant, laundry worker, matron, sales clerk, seamstress, social services aide, steam fireman's helper, telephone operator, typist, watchman, water plant operator.
North Central:	
Indiana: Cities	Clerk stenographer, information clerk.
Iowa:	
State	Messenger.
Cities	Bailiff, bookmender-clerk, housekeeper, janitress, messenger.
Michigan:	
Cities	Library page, museum aide.
Counties	Clerk-matron.

Occupations on State, county and city governments with entrance level rates of less than $1.60 an hour, by region, 1969 or 1970—Continued

Region, State and government jurisdiction:	Occupation
South—Continued	
Minnesota:	
Cities	Casual labor, laborer, refectory worker.
Counties	Junior library page.
Missouri:	
State	Custodial worker, food service helper, laboratory helper, laundry worker, mental health worker trainee, seamstress, watchman.
Cities	Concession clerk.
Nebraska:	
State	Clerk, clerk aide, clerk-typist, keypunch operator, photostat microfilm aide, photostat microfilm operator, stenographer-clerk, telephone operator.
Cities	Casual worker, concession attendant, usher.
Ohio: Cities	Concession attendant, park attendant, recreation aide, sergeant-at-arms.
South Dakota: State	Bookkeeper, bookkeeping machine operator, cashier, claims, auditor, clerk-typist, data recorder, general clerk.
West:	
Arizona: Cities	City youth worker, janitor, street cleaner.
California: Counties	Clerk, laborer, library page, watchman.
New Mexico: State	Attendant, automatic machine operator trainee, bindery worker, boiler fireman, cast maker, clerk, custodian, employment aide, farm helper, food service aide, group worker trainee, junior clerk, laborer, laundry worker, maintenance helper, messenger, motor vehicle examiner, museum assistant, museum gallery attendant, print shop trainee, seamstress, secretarial aide, social service aide, telephone operator, truck driver, watchman.

Note: Government jurisdiction listed are those which had one or more occupational classifications with entrance level rates of less than $1.60 an hour as shown on Table 11.

Source: Based on data on file with the American Federation of State, County, and Municipal Employees, AFL–CIO.

All of the occupations listed above involve entrance levels of less than $1.60 per hour. From this, one can appreciate the financial impact of a law providing a $2.20 per hour minimum in two years and the uneven way in which this law will affect various states and localities.

The overtime provisions in this measure are made applicable to state and local governmental employees, including policemen and firemen. A report by the U.S. Department of Labor entitled, "Non-Supervisory Employees in State and Local Governments" states on page 24 that as to state and local employees "about seven-tenths of all employees working over 48 hours were employed in a public safety activity." Presumably, under this bill firemen who are asleep in a dorm of a firehouse will be paid overtime for the period of their slumber. To say the least, this is a massive intrusion of the Federal government into state and local governmental affairs.

State and local officials can better appreciate the differences in the cost of living which vary widely between states. State and local officials also are responsible for their governmental finances. We do not believe that we should, by law, intrude into their judgment, upset

their budgets, and provide a law which is not related to the job market for cost of living in any particular community. Who is to say that we in the Congress are better able to make these judgments than duly elected state and local officials. At a time when revenue sharing is desperately needed, the Committee compounds the financial problems of our state and local governments.

The vast majority of state and local workers are paid more than the proposed minimum wage. Consequently, the major impact of the wage provisions of this bill will not help most state and local employees who are full time workers attempting to support families. The effect, instead, will be to cut back those programs which attempt to provide employment for young people who otherwise must remain idle on our city streets. Like the provisions relating to domestic employees, we believe that this extension of the Act, while well-intentioned, will have unfortunate consequences which will be counterproductive to many of our nation's objectives. State and local governments do not need revenue sharing in reverse. They do not need to have the Federal government compound their already serious budgetary problems. And our disadvantaged youths do not need a further obstacle to summer employment.

D—SMALL RETAIL BUSINESSES

Retail and service enterprises with annual gross sales volume below $250,000 currently are exempt from coverage under the Fair Labor Standards Act. The proposed substitute would retain this $250,000 figure. The Committee bill, however, extends coverage for all retail and service employees working in chain stores and scales down the current $250,000 enterprise test to $150,000 by $25,000 a year over the next four years.

The Committee apparently forgets that inflation affects small businesses as well as employees. The $250,000 exemption level set in 1966 is already equivalent to $310,000 at today's dollar values. The Committee has totally disregarded the economic consequences of minimum wage legislation on small businesses. In effect, the Committee would mandate the closing of many of our nation's small businesses over the next four years.

The Committee fails to realize that the impact of this measure would not be distributed evenly throughout the economy. Instead, the impact is concentrated in low wage manufacturing industries, trade, services and farming. Specifically America's retail merchants who employ more than 11 million people will be seriously affected since two-thirds of their total operating expenses are directly attributable to labor costs. Rates or profit as well as profit per worker, are typically lower in these industries than in the economy as a whole. (See George E. Belehanty and Robert Evans, Jr., *Low-Wage Employment: An Inventory and an Assessment.* These industries are highly competitive. The rate of business failure is high, particularly among the small firms that are currently exempt from the Fair Labor Standards Act. Dunn and Bradstreet statistics show that a total of 10,321 small businesses and industries failed in 1971, and 4,428, or 43% of these, were in the retail trade. Given these considerations, it is economically impossible for profits in these firms and businesses to absorb any significant share

of the increased minimum wage at this time. The low profit rate and high failure rate in businesses employing a high proportion of very low wage labor suggest that wages are low because of low productvity and not because of any substantial exploitation of labor.

Because of the narrow profit margins and low productivity of many low wage industries, the passage of the Committee bill can be expected to significantly increase unemployment and business failures. Such a course would decrease tax revenue and increase the number of welfare applicants. It would be difficult to think of a policy that would have more of a disastrous effect on a nation's small businesses than the provisions contained in S. 1861.

F—TRANSIT

The Fair Labor Standards Act currently contains an overtime exemption for local bus operators and motormen. The Committee bill reduces and ultimately repeals the local transit overtime exemption.

The Committee completely ignores the economic realities of our nation's mass transit system. Since 1954, 268 transit systems in this country have failed financially. The operating deficit for the American transit industry was $332 million in 1970, $427 million in 1971, and is projected to exceed one-half billion dollars this year. This estimate does not include the $30 million in additional costs imposed on the transit industry by the provisions of S. 1861.

The following table, listing the transit systems which have been abandoned since January 1, 1954, illustrates the financial crisis of our nation's transit systems:

U.S. TRANSIT SYSTEMS ABANDONED OR SOLD SINCE JANUARY 1, 1954

(Abandonments are indicated by an asterisk (*) preceding system name)

City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
ALABAMA				
Birmingham	340,887	Birmingham Transit Company	11/22/63	Birmingham Transit Company
Mobile	202,779	Campbell Bus Service, Inc.	-/ -/65	Airport Limousine Service, Inc.
Mobile	202,779	*Mobile City Lines, Inc.	5/ 1/65	City of Mobile, Dept. of Transpn.
Selma	29,395	*Selma Bus Lines, Inc.	5/ 1/65	None
Sheffield	13,491	Shoals Transit, Inc.	-/ -/60	Joiner Bus Lines
ARIZONA				
Phoenix	439,170	Metropolitan Lines, Inc.	10/ -/55	Metropolitan Lines, Inc.
Phoenix	439,170	Phoenix Transportation System	4/ 1/59	Valley Transit Lines, Inc.
Phoenix	439,170	Valley Transit Lines, Inc.	2/ -/67	Phoenix Transit Corporation
Tucson	212,892	Tucson Rapid Transit Company	7/25/61	Tucson Rapid Transit Company
Tucson	212,892	Tucson Rapid Transit Company	1/ -/67	Tucson Transit Corporation
ARKANSAS				
Blytheville	20,797	Blytheville Coach Lines	1/18/58	Haskell Slaughter & R:Ross
Blytheville	20,797	Slaughter & Ross Bus Line	NA	Blytheville Bus Line
Camden	15,823	* NA	2/ -/56	None
Conway	9,791	* NA	-/ -/55	None
Eldorado	25,292	*Eldorado Bus Lines	-/ -/55	None
Fayetteville	20,274	*University City Transit Company	6/ -/56	None
Fort Smith	52,991	Twin City Lines	6/13/66	Fort Smith City Lines
Fort Smith	52,991	*Fort Smith City Lines	-/ -/69	None
Hot Springs	37,286	*Hot Springs Street Railway	4/30/66	None
Jonesboro	21,418	*City Transit Company	7/22/55	City Transit Company
Jonesboro	21,418	*Jonesboro City Transit Commission	-/ -/57	None
Little Rock	107,813	*Capitol Transit Company	3/ 2/56	Citizens Coach Company
Little Rock	107,813	Citizens Coach Comapny	10/21/62	Twin City Transit, Inc.
North Little	58,032	*Capitol Transit Company	3/ 2/56	Citizens Coach Company
West Memphis	19,374	*West Memphis Transpn. Company	6/ -/56	None
CALIFORNIA				
Alhambra	54,807	*Foster Transportation, Inc.	6/24/60	#
Bakersfield	56,848	Bakersfield Transit Company	8/ 1/56	Bakersfield Municipal Transit System
Burbank	90,155	Asbury Rapid Transit System	7/ -/54	Asbury Rapid Transit System
Covine	(Suburban)	*Edgewood Transit Company	10/ 1/60	None
El Cajon	37,618	*ElCajon Valley Bus Lines	-/ -/55	None

NA - Not Available # One of two systems serving city.

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City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
CALIFORNIA (Cont'd)				
Eureka	28,137	*Eureka Transit	6/10/61	Eureka Jitney Company
Fresno	133,929	Fresno City Lines	11/ 1/61	Fresno Municipal Lines
Glendale	119,442	*Glendale City Lines, Inc.	12/ -/62	Los Angeles Met. Transit Authority
Inglewood	63,390	Inglewood City Lines	8/ 1/67	Southern Cal. Rap. Tr. Dist.
Long Beach	344,168	Long Beach Motor Bus Company	9/ 1/63	Long Beach Public Transpn. Co.
Los Angeles	2,479,015	Los Angeles Transit Lines	)	
		Metropolitan Coach Lines	) 3/ 3/58	
		Asbury Rapid Transit Lines	)	
		Cross Town Suburban Bus Lines	2/15/61	Los Angeles Metropolitan Tr. Auth.
Oakland	367,548	Key System Transit Lines	10/ 1/60	Alameda-Contra Costa Transit Dist.
Ontario	46,617	Ontario Municipal Bus System	12/22/64	Corbett Transit Lines & Tour Club
Ontario	46,617	Corbett Transit Lines &Tour Club	7/28/69	O-V Transit Lines
Oxnard	40,265	*Harbor Transit Lines	2/ 1/56	Oxnard Public Transit System
Pasadena	116,407	Pasadena City Lines, Inc.	4/ 1/63	Pasadena City Lines Inc.
Pasadena	116,407	Pasadena City Lines	8/ 1/67	Southern California Rapid Transit District
Redlands	26,829	*Redlands Bus Service	Approx 1962	NA
Riverside	84,000	*Riverside City Lines	9/20/61	Los Angeles Met. Transit Authority
Sacramento	191,667	Sacramento City Lines	9/23/55	Sacramento Transit Authority
Salinas	28,957	*Salinas Transit Company	11/ 1/68	Salinas City Lines
San Bernardino	(Suburban)	*Fontana Transit Lines	7/ -/59	None
San Bernardino	(Suburban)	*Highland-Patton Bus Line	NA	NA
San Diego	573,224	San Diego Transit System	7/ 1/69	San Diego Transit Corporation
San Jose	204,196	San Jose City Lines, Inc.	-/ -/63	San Jose City Lines, Inc.
San Luis Obispo	20,437	*San Luis Obispo Bus Lines	8/ -/55	Green Bus Service
San Mateo	69,870	San Mateo-Burlingame Transit Co.	-/ -/65	Bayshore Transit Lines
Santa Ana	100,350	Santa Ana Bus Company	12/ -/65	Santa Ana Bus Company
Santa Ana	100,350	Santa Ana Bus Company	4/ -/66	Santa Ana Bus Company
Santa Ana	100,350	*Santa Ana-Garden Grove Bus Line	Approx 1967	NA
Santa Ana	100,350	*Laguna-Beach-SantaAna Stage Line	NA	None
Santa Rosa	31,027	Motor Streetcar Service, Inc.	8/ 4/58	Santa Rosa Transit System
South San Francisco	39,418	*Peninsula Bus Line	12/ -/64	None
Stockton	86,321	Stockton City Lines, Inc.	-/ -/63	Stockton City Lines, Inc.
Stockton	86,321	Stockton City Lines, Inc.	6/ 1/65	Stockton Metropolitan Transit District
Vallejo	60,877	*City of Vallejo Bus Lines	5/ 1/56	Vallejo Transit Lines
Watsonville	13,293	*Chas Manfre Transportation Co.	NA	None

NA-Not Available.

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City	Population 1960 Census	System	Date Sold or Service Discontinued	Sucessor System
COLORADO				
Denver	(Suburban)	*Denver-So. Platte Trans. Co.	10/ 1/56	None
Denver	512,000	Denver Tramway Corporation	4/18/71	Denver Metro Transit
Derby	10,124	*Derby Bus Company	5/ -/57	NA
Englewood	33,398	*South Adams Transit Company	1962	None
Fort Collins	25,027	*Bussard Bus Lines	12/31/55	None
Fort Collins	25,027	Fort Collins Transit, Inc.	11/ 1/57	Fort Collins Transit, Inc.
Fort Collins	25,027	*Fort Collins Transit, Inc.	10/31/59	None
Greeley	26,314	Greeley Bus Company	11/ 3/59	Municipal Bus Company
Loveland	9,734	*Loveland City Bus	2/15/56	Eugene W. Clark
Pueblo	91,181	Pueblo Transit Company	6/ 1/56	Pueblo Transportation Company
Pueblo	91,181	Pueblo Transportation Company	2/ 1/58	a)Same Company
Trinidad	10,691	*Frank Falsetto	4/27/62	None
CONNECTICUT				
Branford	2,371	*Branford Transit Lines, Inc.	3/ -/54	None
Bridgeport	156,748	Gray Line Bus Company#	1/ 1/63	Gray Line Bus Company, Inc.
Bridgeport	156,748	Trumbull Coach Lines, Inc.	7/21/67	Gray Line Bus Company, Inc.
Bristol	45,499	Bristol Traction Company	1966	New Britain Transportation Co.
Meriden	51,850	*Connecticut Company	12/31/59	H. & W. Transit Company
Middletown	33,250	*Connecticut Company	12/31/59	H. & W. Transit Company
New Britain	82,201	Wagner Service	3/ 1/54	#
New Britain	(Suburban)	East Street Bus Line	4/ 1/67	Dattco, Inc.
New Haven	152,048	The Connecticut Company	6/ 4/64	The Connecticut Company
New London	3,608	Connecticut Co.-New London Div.	4/ 1/61	Thames Valley Transit, Inc.
Norwalk	67,775	*Connecticut Railway & Lighting Co. Norwalk Division	7/ 1/69	None
Norwich	38,506	Connecticut Company-Norwich Div.	4/ 1/61	Thames Valley Transit, Inc.
Stafford Springs	(Suburban)	Stafford Bus Company	1958	Post Road Stages (Wapping, Conn.)
DELAWARE				
Wilmington	95,827	Delaware Coach Company	8/ -/56	Delaware Coach Company
Wilmington	95,827	Delaware Coach Company	1/ 5/69	Greater Wilmington Transpn. Auth.
DISTRICT OF COLUMBIA				
Washington	763,956	Capital Transit Company	8/15/56	D.C. Transit System
Washington	(Suburban)	W.M.A. Transit Company	2/ -/55	W.M.A. Transit Company
FLORIDA				
Daytona Beach	37,395	Ormond Beach Transit Company	2/ -/58	Daytona Beach Municipal Bus
		Peninsula Transit Company		
Daytona Beach	37,395	Daytona Beach Municipal Bus Lines	1966	Transit Co. of Daytona Beach,Inc.
Fort Lauderdale	83,648	Fort Lauderdale Transit, Inc.	1/ 1/67	Beach Transit, Inc.
Fort Myers	22,523	*Fort Myers City Lines	4/22/58	None
Fort Pierce	25,256	*Dan Fagen	1956	None

NA-Not Available. #Only one of the independents serving city. (a)Lease agreement with City of Pueblo.

City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
FLORIDA (Cont'd)				
Hialeah	66,972	*Coast Cities Coaches, Inc.	NA	None
Key West	33,956	*Key Islands Transit Company	8/15/60	Southern Keys Transit, Inc.
Key West	33,956	*Southern Keys Transit, Inc.	2/ -/69	Antillana Bus Corp. of Key West
Lake Worth	20,758	*Lake Worth Coach Lines	10/ -/60	None
Melbourne	11,982	*City of Melbourne	1962	None
Miami	(Suburban)	Keys Transit Company	6/16/58	Keys Transit Company
		Keys Transit, Inc.	}	
		Miami Beach Railway Company	}	
Miami		Miami Transit Company	} 2/ 9/62	Metro. Dade County Transit Auth.
	291,688	So. Miami Coach Lines, Inc.	3/21/56	City of Panama City
Panama City	33,275	Panama City Transit Company	8/16/60	Southern Tours, Inc.
Pass-a-Grille Beach	1,000	Pass-a-Grille Beach Bus Lines (Municipal		
West Palm Beach	56,208	Florida Cities Bus Company	1960	Transit Co. of the Palm Beaches
GEORGIA				
Albany	55,000	*Cities Transit of Georgia, Inc.	2/ -/62	None
Athens	31,355	*Athens City Lines, Inc.	1956	None
Atlanta	487,455	Atlanta Transit Company	5/ 1/54	Atlanta Transit System, Inc.
Atlanta	(Suburban)	Interurban Transit Lines, Inc.	5/13/58	Gray Line Transit System, Inc.
Atlanta	(Suburban)	*Gray Line Transit System, Inc.	4/20/59	None
Brunswick	21,703	Georgia City Coaches, Inc.	2/ 1/57	Brunswick Transit Company
Columbus	116,779	Columbus Transportation Company	8/ 1/67	Columbus Transpn. System
LaGrange	23,632	*LaGrange Coach Company	6/ 1/58	None
Macon	69,764	Suburban Transit Lines, Inc.	1964	Commercial Transit Lines, Inc.
Marietta	25,565	*Marietta Coach Company	1959	None
Rome	32,226	Georgia Power Company	10/ 1/61	City of Rome
Savannah	149,245	Savannah Transit Company	7/ 7/60	Savannah Transit Authority
Valdosta	30,652	*Valdosta Coaches	NA	NA
IDAHO				
Idaho Falls	33,161	*Idaho Falls Motor Coach Company	NA	None
Idaho Falls	33,161	*Idaho Falls Transit Company	1955	None
Lewiston	(Suburban	*Chapin's Transit System	NA	None
Pocatello	28,534	*Pocatello Transit Company	3/12/55	Gate City Bus Line
Pocatello	28,534	Gate City Bus Line	NA	Aberdeen Stages
Pocatello	28,534	*Gate City Bus Lines	9/10/65	None
ILLINOIS				
Alton	43,047	Citizens Coach Company	} 4/ 1/63	Bi-State Transit System
	(Suburban)	Brown Motor Lines, Inc.	}	
Aurora	63,715	Aurora City Lines, Inc.	6/ -/66	Aurora City Lines, Inc.

NA-NOT Available.

City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
ILLINOIS (Cont'd)				
Aurora	63,715	Aurora-Elgin Bus Lines, Inc.	6/ -/66	Aurora-Elgin Bus Lines, Inc.
Aurora	63,715	*Aurora City Lines, Inc.	NA	Toni-A-Hawk Transit
Belleville	(Suburban)	*Belleville Suburban Bus Lines	9/16/59	None
Belleville	37,264	Belleville-St. Louis Coach Co.	)	
	(Suburban)	County Coach Company	) 4/ 1/63	Bi-State Transit System
Bloomington	36,271	Bloomington-Normal City Lines	6/ -/66	Bloomington-Normal City Lines
Caseyville	2,890	Caseyville Bus Lines, Inc.	4/ 1/63	Bi-State Transit System
Caseyville	2,890	Industrial Bus Lines, Inc.	4/ 1/63	Bi-State Transit System
Champaign	49,538	Champaign-Urbana City Lines	6/ -/66	Champaign-Urbana City Lines
Danville	41,856	*Danville City Lines, Inc.	11/ 1/64	Bee Line Transit Corp.
East St. Louis	81,712	East St. Louis City Lines, Inc.	4/ 1/63	Bi-State Transit System
Elgin	49,447	Elgin City Lines, Inc.	6/ -/66	Elgin City Lines, Inc.
Elgin	49,447	Elgin City Lines, Inc.	2/ 1/68	City of Elgin, Dept. of Transpn.
Elmhurst	36,991	Leyden Motor Coach Company	8/ 6/63	West Towns Bus Company
Galesburg	37,243	*Galesburg Safety Route	3/15/54	Kewanee City Lines
Galesburg	37,243	*Kewanee City Lines	3/ 1/55	Galesburg Transit Lines, Inc.
Galesburg	37,243	*Galesburg Transit Lines, Inc.	7/30/56	b) None
Granite City	40,073	Community Coach Company	4/ 1/63	Bi-State Transit System
Harvey	29,071	South Suburban Safeway Lines	11/ 2/65	South Suburban Safeway Lines, Inc.
Highwood	(Suburban)	*Chicago No. Shore & Milwaukee	1/21/63	None
Jacksonville	21,690	*Elm City Bus Lines	1955	None
Joliet	66,780	*Joliet City Lines	8/ -/70	Joliet Mass Transit District c)
Kankakee	27,666	Kankakee Motor Coach Company	3/ -/58	Kankakee Motor Coach Company
Kankakee	27,666	*Kankakee Motor Coach Company	2/19/59	South Suburban Safeway Lines
Kankakee	27,666	*South Suburban Safeway Lines	8/ 4/59	None
Kewanee	16,324	Kewanee City Lines	3/ 1/55	Boiler City Transit Lines
Lombard	22,561	Leyden Motor Coach Company	3/ -/61	Leyden Motor Coach Company
Marion	11,274	*Marion City Bus Company	1954	None
Maywood	(Suburban)	*Safety Transpn. Company	1/ 6/58	Leyden Motor Coach Company
Oak Park	61,093	West Towns Bus Company	1/26/66	West Towns Bus Company
O'Fallon	4,018	O'Fallon-Belleville Coach Co.	4/ 1/63	Bi-State Transit System
Ottawa	19,408	*Ottawa Safety Lines, Inc.	6/ -/57	NA
Peoria	103,162	Peoria City Lines	6/ 6/70	Greater Peoria Mass Transit Dist. d)
Quincy	43,793	Quincy City Lines, Inc.	6/ -/56	Quincy City Lines, Inc.
Rantoul	22,116	*Rantoul Transit Company	4/16/59	None
Savanna	4,950	*Savanna City Bus, Inc.	3/ 4/58	None
Skokie	59,364	American Coach Company	9/12/59	United Motor Coach & Evanston Bus Co
Springfield	83,271	Springfield City Lines, Inc.	7/ 1/68	Springfield Mass Transit District

NA-Not Available. (c) Discontinued Service After Extended Strike Beginning March 1, 1970. (d) Began operations 8/17/70.

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City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
ILLINOIS (Cont'd)				
Urbana	27,294	Champaign-Urbana City Lines	6/ -/66	Champaign-Urbana City Lines
Wheaton	(Suburban)	*Chicago, Aurora & Elgin R.R.	4/28/57	Leyden Motor Coach Company
Wood River	11,694	Wood River-Alton Bus Lines,Inc.	4/ 1/63	Bi-State Transit System
Worth	(Suburban)	Chicago Ridge Transit Sys.,Inc.	11/ 6/57	Sky Lane Transpn. & Serv. Corp
INDIANA				
Anderson	49,061	*Anderson City Lines,Inc.	7/ -/68	None
Bloomington	31,357	Leppert Bus Lines	12/20/63	Bloomington Transit Lines
Bloomington	31,357	Bloomington Transit Lines,Inc.	10/ 1/66	Indiana University
Columbus	20,778	*Leppert Bus Lines, Inc.	1958	NA
Columbus	20,778	*	3/ -/62	Municipal Transit System
Elkhart	40,274	Elkhart Motor Coach Corporation	7/ -/54	Browning Bus Lines
Elkhart	40,274	*Browning Bus Lines	6/13/58	None
Evansville	141,543	*Evansville City Coach Lines	2/12/59	Terre Haute Transit Co.
Evansville	141,543	*Evansville City Transit	NA	McCleary Coach Lines
Fort Wayne	161,776	Fort Wayne Transit, Inc.	7/19/68	Fort Wayne Transit, Inc.
Goshen	13,718	Goshen Motor Coach Corp.	7/ -/54	Browning Bus Lines
Jeffersonville	19,522	*Jeffersonville Bus Lines	10/28/59	None
Jeffersonville	19,522	Northside Transit, Inc.	NA	NA
Kokomo	47,197	Cross Transit Corp.	5/11/54	Kokomo City Lines
Kokomo	47,197	*Kokomo City Lines	6/26/58	None
Kokomo	47,197	*Checker Cab Company	2/28/62	Kokomo Transit Lines
Kokomo	47,197	Checker Cab Company	-/ -/65	City Cab Company
Logansport	21,106	*Logansport Bus Company,Inc.	11/ 1/65	None
Marion	37,854	*Marion Railways,Inc.	2/28/62	Bus Transit,Inc.
Michigan City	36,653	*Michigan City Transit Lines	8/ -/55	City of Michigan City Bus Dept
New Haven	(Surburban)	New Haven-Fort Wayne Bus Line	11/ 1/62	Fort Wayne Transit,Inc.
Peru	14,453	*Peru Transit Lines	8/ -/58	None
South Bend	132,445	Northern Indiana Transit,Inc.	1/11/60	Northern Indiana Transit,Inc.
South Bend	132,445	Northern Indiana Transit,Inc.	3/ 1/61	Northern Indiana Transit,Inc.
South Bend	132,445	Northern Indiana Transit,Inc.	4/30/67	Northern Indiana Transit,Inc.
South Bend	132,445	Northern Indiana Transit,Inc.	1/ 2/68	South Bend Public Trans. Corp
Terre Haute	72,500	dOTerre Haute City Lines,Inc.	11/ -/56	Terre Haute Transit Co.,Inc.
Vincennes	18,046	Vincennes Transit Lines	5/16/58	Wabash-Arrow Lines,Inc.
Vincennes	18,046	*Vincennes Transit	5/31/62	None
Wabash	12,621	Wabash Transit Lines	3/11/55	Wabash Transit Lines
Wabash	13,000	*Wabash Transit Lines	7/ 1/61	None
Warsaw	12,621	The Warsaw-Winona Bus Corporation	1955	Warsaw
Washington	10,846	*City Bus Company	6/16/56	None

NA-Not Available.

(c)Service resumed by Checker Cab Company 11/58.

(d)Franchise revoked.

City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
IOWA				
Boone	12,468	*The Boone Bus Company	11/ 1/60	None
Burlington	32,430	Burlington City Lines	11/24/58	Burlington Transit Company
Cedar Rapids	92,035	e)Cedar Rapids City Lines,Inc.	12/ -/66	e)Regional Transit Authori
Clinton	33,589	Clinton Street Railway Company	10/16/60	Interstate Power Company
Council Bluffs	55,641	Council Bluffs Transit Company	2/ -/57	City Transit Lines,Inc.
Des Moines	208,982	Des Moines Railway Company	1/16/54	Des Moines Transit Company
Fort Dodge	28,339	*Fort Dodge Transpn. Company	12/31/66	None
Keokuk	16,316	*Midwest Transit Lines	6/ 5/56	None
Mason City	30,642	*Mason City Motor Coach Company	6/30/54	City Transit,Inc.
Sioux City	89,159	Sioux City Lines,Inc.	4/30/67	Sioux City Lines,Inc.
KANSAS				
Lawrence	32,858	*Rapid Transit,Inc.	6/ 7/57	None
Manhattan	22,993	Manhattan Transit Company	1955	Junction City Transit Comp
Mission	(Suburban)	*Intercity Bus Lines,Inc.	2/12/58	None
Pittsburg	18,678	*City Bus Company	7/27/61	None
Salina	43,202	*Salina Transit Company	5/30/65	City Bus Service
Topeka	119,484	Topeka Transportation Company	2/ -/56	Topeka Transportation Compan
Wichita	254,698	Wichita Transportation Company	7/ -/57	Wichita Bus Company,Inc.
Wichita	254,698	*Wichita Bus Company	6/ 4/60	Rapid Transit Lines
Wichita	254,698	Rapid Transit Lines,Inc.	NA	Wichita Transit Company
Wichita	254,698	Wichita Transit Company	12/ 6/66	Metropolitan Transit Authority
KENTUCKY				
Ashland	31,283	Blue Ribbon Lines Corp.	11/11/55	Ohio Valley Bus Company
Harlan	4,177	Tri State Coach Corporation	1955	Three State Coach Lines
Henderson	16,892	City Bus Lines	7/26/57	Street Transportation System
Hopkinsville	19,465	*Hopkinsville Transit Company	10/ -/54	None
Lexington	62,810	Lexington Railway System	11/ 1/56	Lexington Transit Corporati
Louisville	390,639	Louisville Transit Company	7/ -/58	Louisville Transit Company
Owensboro	42,471	*Owensboro Rapid Transit Company	2/27/54	Owensboro City Bus Line
Owensboro	42,471	*Owensboro City Bus Lines,Inc.	NA	None
Paducah	34,479	Paducah Bus Company	12/31/54	Paducah Transit Corporati
Paducah	34,479	*Paducah Transit System	5/ -/69	None
LOUISIANA				
Baton Rouge	152,419	Baton Rouge Bus Company	11/20/68	Metro Transit Corporation
Baton Rouge	152,419	Metro Transit Corporation	8/21/70	Capitol Transit Company
Bogalusa	21,423	*Bogalusa City Lines,Inc.	-/ -/64	NA
Bossier City	32,776	Bossier-Shreveport Transit Company	10/ -/67	Bossier City Service Corp.
Lake Charles	63,392	Lake Charles Bus Company	5/ 1/67	Lake Charles Transit Compa
New Iberia	29,062	*LaPorte City Transit	NA	NA

NA-Not Available.

(e)Franchise cancelled - service resumed 4/1/67.

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City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
LOUISIANA Cont'd				
Shreveport	164,372	Shreveport Railways Company	6/30/57	Shreveport Transit Co., Inc.
MAINE				
Bangor	38,912	*Bangor Transit Company	6/20/54	Hudson Bus Lines
Calais	4,223	*Border Transportation Company	1960	None
Columbia	36,650	*Columbia City Bus,Inc.	2/ 7/65	Columbia Municipal Bus Lines
Lewiston	40,804	*Lewiston-Auburn Transit Company	2/28/59	Hudson Bus Lines
Portland	72,566	Portland Coach Company	7/ 1/66	Greater Portland Transpn. Co.
Rockland	8,769	Staples Bus Line	1959	Woods Bus Line
Rumford	7,233	Rumford & Mexico Bus Line, Incl	11/19/57	K & M Bus Line
Sanford	10,936	York Utilities Company	NA	York Lines, Inc.
Waterville	(Suburban)	Community Bus Lines,Inc.	-/ -/60	Owyer Bus Lines
MARYLAND				
Annapolis	(Suburban)	*Inter County Transit Corp.	4/ -/60	D.C. Transit System
Baltimore	939,024	Baltimore Transit Company	4/30/70	Metro. Transpn. Auth. of Md.
Cumberland	33,415	Cumberland Transit Lines	10/14/58	Queen City Bus Lines,Inc.
Frostburg	(Suburban)	*Peoples Transit Co., Inc.	NA	Queen City Bus Lines,Inc.
Hagerstown	(Suburban)	*Blue Ridge Transportation Company	7/31/55	None
Hagerstown	36,660	Potomac Edison Company	7/ 1/57	Antietum Transit Co., Inc.
Salisbury	16,302	*Salisbury Transit Company	9/15/58	City of Salisbury Bus Line
Salisbury	16,302	City of Salisbury Bus Line	1/12/60	City Transit, Inc.
MASSACHUSETTS				
Boston	697,197	Old Colony Line (NewHaven Rwy.)	11/ 5/65	Mass. Bay Transpn. Auth.
Boston	(Suburban)	Boston & Maine Transpn. Company	12/ 8/57	Trailways of New England,Inc.
Boston	(Suburban)	Eastern Massachusetts St. Rwy. Co.	3/30/68	Massachusetts Bay Transpn. Auth.
Dedham	(Suburban)	*Dedham-Needham Transit Lines	6/ -/58	Transit Bus Lines,Inc.
Gardner	19,038	Gardner-Templeton St. Rwy. Co.	4/ -/57	Wilson Bus Line, Inc.
Haverhill	46,346	Eastern Mass. St. Rwy.	5/11/59	Mass. Northeastern Transpn. Co.
Malden	57,676	Brush Hill Transpn. Company	) NA	Metropolitan Transit Authority
		Warwick Coach Lines,Inc.	) NA	
Merrimac	3,261	*Northeastern Transportation Co.	1967	NA
New Bedford	102,477	Union Street Railway Company	8/ -/62	Union Street Railway Co. (Purchas by Eastern Mass. St. Rwy.)
Revere	40,080	Rapid Transit, Inc.	2/ 5/56	Saugus Transit, Inc.
Taunton	41,132	*East Taunton Bus Lines Corp.	11/18/58	None
Taunton	41,132	*Eastern Mass. St. Rwy. Company	8/31/59	f) None
MICHIGAN				
Ann Arbor	67,340	*Ann Arbor City Bus, Inc.	4/ 6/57	Ann Arbor Transit, Inc.
Ann Arbor	67,340	Ann Arbor Transit, Inc.	1957	g) Same Company

NA-Not Available. F)Service resumed by Unda Bus Co. G)Lease agreement with City of Ann Arbor.

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City	Population 1960 Census	System	Date Sold of Service Discontinued	Successor System
MICHIGAN (Cont'd)				
Ann Arbor	67,340	g) *Ann Arbor Transit, Inc.	6/11/59	h) None
Ann Arbor	67,340	City Bus Company	5/ 6/63	Public Bus Service of Ann Arbor
Ann Arbor	67,340	*Public Bus Service of Ann Arbor	1/ 3/64	City Bus Company
Ann Arbor	67,340	*Ann Arbor City Transit Company	1/31/69	NA
Bay City	53,604	Baker Bros. Motor Coach Company	5/14/58	i) None
Dearborn	(Suburban)	Intertown Suburban Lines Corp.	12/31/61	Bert Jasper
Grand Rapids	177,313	Grand Rapids Motor Coach Company	12/15/54	Grand Rapids City Coach Lines, Inc
Grand Rapids	(Suburban)	Division Avenue Bus Line	4/ -/60	Grand Rapids City Coach Lines, Inc
Grand Rapids	(Suburban)	*Grandville-Wyoming Transit Co.	12/31/65	None
Haughton	3,393	*Copper Range Motor Bus Company	4/15/55	None
Jackson	50,720	Jackson City Lines, Inc.	12/ 1/56	j) Same Company
Jackson	50,720	*Jackson City Lines, Inc.	8/31/64	Jackson Public Transpn. Company
Kalamazoo	82,089	Kalamazoo City Lines, Inc.	10/ 1/57	k) Same Company
Lansing	27,779	Inter City Coach Lines	4/12/59	Lansing Suburban Lines
Laurium	(Suburban)	Copper County Bus Line	NA	NA
Manistee	(Suburban)	*Mauzy Bus Line	NA	NA
Midland	27,779	*Midland Transit Lines	4/ -/55	None
Monroe	22,968	Monroe City Lines, Inc.	2/ -/54	Monroe City Lines, Inc.
Monroe	22,968	Monroe City Lines, Inc.	6/24/54	Monroe City Lines
Monroe	22,968	*Monroe City Lines	5/ -/56	None
Muskegon	46,485	*Peoples Transport Corp.	11/ 1/56	Muskegon City Coach Lines, Inc.
Pontiac	82,233	Pontiac City Lines	6/ -/60	Pontiac Transit Corporation
Pontiac	82,233	*Pontiac Transit Corporation	2/ 1/71	City of Pontiac, Municipal Transi Service
Port Huron	36,084	*Port Huron Bus Company	3/30/57	City Cab Company
Port Huron	36,084	City Bus Company	2/ -/64	Port Huron Transit Company
Port Huron	36,084	*Port Huron Transit Co.	NA	None
Royal Oak	80,612	Great Lakes Greyhound Lines	2/ 1/58	Great Lakes Transit Corporation
Saginaw	98,265	Saginaw City Lines	9/ 1/60	l) Same Company
Saginaw	98,265	Saginaw City Lines, Inc.	1/10/62	St. John Transpn. Co. (Ohio)
Saginaw	98,265	*Saginaw Transit, Inc.	4/19/70	City of Saginaw
Wyandotte	43,519	Great Lakes Greyhound Lines	2/ 1/58	Great Lakes Transit Corp.
Ypsilanti	20,957	Ypsilanti Motor Coach	NA	NA
MINNESOTA				
Austin	27,908	*Austin City Bus Line	1/ -/54	Austin Bus Lines
Austin	27,908	Austin Bus Lines, Inc.	NA	Austin Transit, Inc.

NA-Not Available. (h)Service resumed by City Bus Co. in September 1959. (i)Six independent operators. Resumed service with Volkswagen 10/-/58. (j)Lease agreement with City of Jackson. (k) Lease agreement with City of Kalamazoo. (l) Lease agreement with City of Saginaw.

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City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
MINNESOTA Cont'd				
Brainerd	12,898	*Brainerd Bus Line	1966	None
Detroit Lakes	5,633	*Detroit Lakes City Bus	11/ -/54	NA
Duluth	106,884	Duluth-Superior Transit Co.	2/ 1/70	Duluth Transit Authority
Minneapolis	(Suburban)	Minneapolis & Suburban Bus Co.	1958	NA
Minneapolis-St. Paul	482,872	Twin City Lines, Inc.	9/18/70	Twin Cities Area Metro Trans. Aut
MISSISSIPPI				
Greenville	41,502	*Greenville City Lines, Inc.	NA	None
Gulfport	30,204	Municipal Transit Lines, Inc.	1/ -/62	American Transit Corporation
Laurel	27,889	*Laurel City Lines	6/ -/56	None
MISSOURI				
Ferguson	22,149	Ferguson-Broadway Bus Lines, Inc.	4/ 1/63	Bi-State Transit System
Hannibal	20,028	*Hannibal Transportation Company	5/29/57	None
Independence	62,328	City Transit Lines	1954	Floyd A. Haskell
Jefferson City	28,228	Jefferson City Lines, Inc.	9/ 1/66	Jefferson City Transit Auth.
Joplin	38,958	*Joplin Transit Corporation	4/16/60	Ozark Leasing Company
Joplin	38,958	*Ozark Leasing Company	4/17/63	Joplin-Carthage Bus Company
Kansas City	475,539	Kansas City Public Service Company	5/ -/60	Kansas City Transit, Inc.
Kansas City	475,539	Kansas City Transit, Inc.	2/ 1/69	
		Johnson Co. Suburban Lines	4/ 1/69	Kansas City Area Trans-
		Jefferson Transpn. Co. (Suburban)	4/ 1/69	portation Authority
Overland	22,763	St. Louis County Transit Co.	4/ 1/63	Bi-State Transit System
St. Louis	705,026	St. Louis Public Service Co.	4/ 1/63	Bi-State Transit System
St. Louis	705,026	Consolidated Service Car Company	11/ -/65	Bi-State Development Agency
St. Louis	(Suburban)	Suburban Service Bus Company	3/15/57	Ferguson Broadway Bus Lines
Sedalia	23,874	Sedalia Bus Company	1954	Sedalia Public Transit Lines
MONTANA				
Butte	27,877	Butte City Lines, Inc.	6/ 1/58	m) Same Company
Butte	27,877	m) Butte City Lines, Inc	5/31/59	Silver Bow Transit Company
Butte	27,877	*Silver Bow Transit	6/ -/62	n)Butte Bus Service
Great Falls	55,357	Great Falls-City Lines	1/ 1/57	o) Same Company
Great Falls	55,357	o) *Great Falls City Lines	6/30/59	None
Great Falls	55,357	Beckwith Lines	5/26/61	None
Missoula	27,090	Missoula Transit Company	4/ -/55	Gardern City Transit Company
Missoula	27,090	*Garden City Transit Company	5/ 1/56	None
Missoula	27,090	*Missoula Bus Service	2/ 3/62	None

NA-Not Available. (m)Lease agreement with City of Butte. (n)Service resumed 12/1/62. (o)Lease agreement with City of Great Falls.

City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
MONTANA (Cont'd)				
Missoula	27,090	*Garden City Transit Company	5/ 1/56	None
Missoula	27,090	*Missoula Bus Service	2/ 3/62	None
NEBRASKA				
Falls City	(Suburban)	*Kirk Bus & Express Company	9/ 1/61	NA
Fremont	19,698	*Fremont City Lines	2/ 5/55	Fremont Transit Lines
Grand Island	25,742	*Grand Island Transit Company	1962	Hollis Mahoney
Hastings	21,412	*Hastings Bus Lines, Inc.	1/ -/59	None
Ralston	2,997	*Ralston Bus Company	9/10/57	None
Scottsbluff	13, 377	*Scottsbluff-Gering Lines	2/ -/55	Star Bus Lines
NEVADA				
Las Vegas	64,405	Vegas Transit Lines	7/ -/65	Las Vegas System, Inc.
Reno	51,470	*Reno Bus Lines, Inc.	3/ -/65	None
NEW HAMPSHIRE				
Berlin	17,821	*Berlin Bus Lines	NA	NA
Concord	28,991	Boston & Maine Transpn. Company	4/ -/55	Capitol Transit Company
Manchester	88,282	Public Service Co. of N.H.	12/31/54	Manchester Transit, Inc.
NEW JERSEY				
Camden	(Suburban)	Suburban Bus Lines	NA	Camden & Burlington Counties Bus Co.
Camden	117,159	Camden & Burlington Counties Bus Co.	-/ -/63	Red Arrow Lines, Inc.
Clifton	(Suburban)	Consolidated Bus Lines	8/15/59	Community Bus Lines, Inc.
E. Orange	77,259	Trackless Transit of N.J.	3/ -/55	Trackless Transit, Inc.
Elmer	(Suburban)	*Corson Bus Service	NA	None
Haledon	6,161	*Hamblock Bros.	10/ -/57	NA
Jersey City	276,101	*Waverly Bus Co., Inc. #	NA	NA
Midland Park	(Suburban)	*Paterson Suburban Bus Corp.	-/ -/63	None
Trenton	114,167	Trenton Transit	9/30/59	Capital Transit, Inc.
Trenton	114,167	Capital Transit, Inc.	7/20/61	Capital Transit, Inc. (Purchased by Atlantic City Transportation Company)
Trenton	114,167	Capitol Transit Company	-/ -/69	Mercer County Improvement Auth.
Wallington	9,261	*Olympic Bus Lines, Inc.	1962	None
NEW MEXICO				
Albuquerque	(Suburban)	Amijo Bus Company Isleta Bus Line	2/14/58	Suburban Bus Lines, Inc.
Roswell	39,593	*Cities Transit Company	7/ 1/57	(Roswell-Walker Bus Lines (Roswell Bus Service
Roswell	39,593	*Moore Service Bus Lines	11/ 1/63	None
Santa Fe	33,394	Capitol Transit Lines	1959	Capitol Transit Lines
Santa Fe	33,394	*Capital Transit Lines	12/31/66	None

NA-Not Available. #Only one of the independents serving this city.

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City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
NEW YORK				
Albany	(Suburban)	*United Transportation Company	NA	None
Amsterdam	28,772	Fonda, Johnstown & Gloversville R.R. Company	1956	Mohawk Valley Transit, Inc.
Amsterdam	28,772	*Vollmer Motor Bus Lines	4/22/56	#
Auburn	35,249	*Auburn Bus Company	7/15/54	Mary F. Kilborne
Babylon	(Suburban)	Cap. Tree Transit	1959	Babylon Transit Company
Binghamton	75,941	Triple Cities Traction Company	8/ -/57	Triple Cities Traction Company
Binghamton	75,941	Triple Cities Traction Company	6/ 2/68	Broome County Transit System
Black River	(Suburban)	*Frank F. Williams	1959	NA
Buffalo	532,759	Buffalo Transit Company	8/11/61	Niagara Frontier Transit System
Cape Vincent	(Suburban)	*Roy J. Mattraw	1959	NA
Catskill	(Suburban)	Kelsey Bus Lines, Inc.	1959	Mountain View Coach Lines, Inc.
East Farmingdale, L.I.	3,000	*Checker Bus Corporation	1966	None
Ellenville	(Suburban)	*Eagle Bus Line, Inc.	NA	NA
Elmira	46,517	*Elmira Motor Coach Corporation	3/ 5/55	Rochester-Penfield Bus Company
Hempstead	34,641	*Semke Bus Lines, Inc.	8/ -/70	NA
Hewlett, L.I.	(Suburban)	Nassau Bus Lines, Inc.	7/ -/59	Shenck Transportation Company
Hornell	13,907	*Hornell Motor Coach Company	1/31/57	None
Ithaca	28,799	Ithaca Railway, Inc.	1961	City of Ithaca
Jamestown	41,818	Jamestown Motor Bus Transpn. Co.	7/ 1/62	City of Jamestown Motor Bus Operating Account
Kingston	29,260	Kingston City Transpn. Corp.	11/ -/63	Urban Transit Corporation
LaFargeville	(Suburban)	Resort Bus Line	1959	Frank F. Williams
Little Valls	8,935	*Service Transpn. Co., Inc.	1954	None
Massena	(Suburban)	Boyce Bus Line	1955	None
New York	7,781,984	Fifth Avenue Coach Lines, Inc.		West Fordham Transpn. Company
		Surface Transit, Inc.	3/23/62	Manhattan & Bronx Sur.Tr.Op.Auth.
		Hudson & Manhattan Railroad Co.	9/ 1/62	Port Authority Trans-Hudson Corp.
New York	(Suburban)	Fordham Transit Company, Inc.	12/ -/56	West Fordham Transportation Co.
Newburgh	30,979	Newburgh Bus Corporation	7/ 1/63	Newburgh Beacon Bus Corporation
Oswego	(Suburban)	L.D. Dickson Motor Coach Lines	1959	Capitol Bus Company, Inc.
Port Chester	24,960	*County Transportation Company	12/31/57	West Fordham Transpn. Company
Port Chester	24,960	*Wilder Transportation Company	1966	None
Port Jefferson	2,336	Quinn's Bus Line	1954	Coram Bus Service
Poughkeepsie	38,330	*Poughkeepsie & Wappingers Falls Railway Company	9/28/54	Poughkeepsie Transit Lines
Ravena	2,410	*Coeymans Ravena-Albany Bus Line Co.	1954	None
Rochester	(Suburban)	Rochester R-Penfield Bus Co., Inc.	1959	Western New York Motor Lines, Inc
Rochester	318,611	Rochester Transit Corporation	5/23/68	City of Rochester Transit System
Rome	51,646	*Rome City Bus Line, Inc.	4/30/55	Rome Transit, Inc.
Rome	51,646	*Rome Transit, Inc.	12/24/55	Copper City Transit

NA-Not Available. #Only one of the independents serving this city.

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City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
NEW YORK (Cont'd)				
Rome	51,646	*Copper City Transit	1956	None
Salamanca	8,480	Salamanca City Bus Lines, Inc.	1959	NA
Utica	100,410	Utica Transit Corporation	8/ -/57	Utica Transit Corporation
Utica	100,410	Utica Transit Corporation	6/30/67	Utica Transit Commission
Westbury	(Suburban)	*Mid Island Transit,Inc.	8/ -/70	NA
Yonkers	190,634	Bernacchia Bros., Inc.#	2/ -/54	None
Yonkers	190,634	Yonkers Bus, Inc. #	1959	Club Transportation Corp.
NORTH CAROLINA				
Burlington	33,199	*Burlington Bus Line, Inc.	5/ -/69	None
Charlotte	201,564	Duke Power Company	4/26/55	Charlotte City Coach Lines,Inc.
Concord	28,991	*Concord Coach Company	8/ -/65	None
Elizabeth City	14,062	Elizabeth City Bus Line	11/ -/57	None
Gastonia	37,276	Gastonia Transit Company	1954	City Coach Company
Goldsboro	28,873	*Goldsboro Transportation Co.	NA	None
Henderson	12,740	*Henderson Bus Lines, Inc.	NA	None
Kinston	24,819	Kinston Transit Company	Early 1957	None
Morganton	9,186	Burke Transit Company	6/11/55	Suburban Coach Company
Raleigh	93,931	White Transportation	2/ 1/58	Raleigh City Coach Lines
Sanford	(Suburban)	*Safeway Suburban Lines	6/ 9/62	None
Winston-Salem	111,135	Duke Power Company	5/10/54	Winston-Salem City Coach Lines,Inc
Winston-Salem	111,135	p)*Winston-Salem City Coach Lines	10/12/68	NA
NORTH DAKOTA				
Bismarck	27,670	Capital City Bus Lines	1963	Bismarck Bus Line, Inc.
Fargo	46,662	p)*Northern Transit Company	1/ -/ 69	NA
Grand Forks	34,451	Grand Forks Transportation Co.	7/20/55	Grand Forks Motor Coach Company
OHIO				
Akron	290,351	*Mogadore-Akron Transit Company	11/27/63	Akron-Peninsula Coach Lines
Akron	290,351	*Akron Transportation Company	Mid.-1969	q)Akron Metropolitan Reg. Tr. Auth
Alliance	28,362	Stanley Bros. Company	7/ 1/58	Gilbert C. Van Dirkar (r)
Alliance	28,362	*Carnation City Coach Lines:		
		-Parkway Lines	4/19/62	Tri City Transit (Massillon)
		-Union Avenue	4/20/62	A&M Transit Company
		*A & M Transit Company	5/14/62	None
		*Parkway Bus Company	1962	None
Cambridge	14,562	*Cambridge & Southern Transit Co.	6/18/56	None
Canton	(Suburban)	Stark Transit, Inc.	7/ -/57	Tri City Transit, Inc.
		Inter City Coach Lines, Inc.		

NA-Not Available. #Only one of the independents serving this city. (p)Franchise revoked. (q)Resumed service 8/6/69.
(r)City portion of company sold to Van Dirkar. Stanley Bus Co. now operates school buses.

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City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
Cleveland	(Suburban)	Broadview Bus Line	7/ 1/61	Cleveland Transit System
Cleveland	(Suburban)	Berea Bus Line Company	2/ 1/68	Cleveland Transit System
Dayton	(Suburban)	Dayton Suburban Bus Lines,Inc.	1956	The City Transit Company
East Liverpool	22,306	*Valley Motor Transit Company	12/ 8/55	None
Elyria	43,782	Elyria Transit Company	2/ 1/54	Elyria Transit Company
Elyria	43,782	*Elyria Transit Company	12/ -/55	Lorain City Lines, Inc.
Fairport Harbor	(Suburban)	*Lake County Transportation Co.	NA	NA
Findlay	30,344	Findlay City Bus Line	10/ -/58	None
Findlay	30,344	*Findlay Bus Lines	5/ 9/63	None
Fremont	17,573	Fremont Transit Lines	12/31/59	Fremont City Bus Lines
Fremont	17,573	Fremont City Bus Lines(Municipal)	1/ 1/61	Mac's Cab Company
Hamilton	72,354	Hamilton City Lines, Inc.	7/31/54	Hamilton Transit Company
Hamilton	72,354	*Hamilton Transit Company	12/31/60	Hamilton City Lines, Inc.
Lakewood	1,008	Lakewood Rapid Transit, Inc.	12/10/54	Cleveland Transit System
Lima	51,037	Lima Transit Company	6/ -/64	Lima Bus Company
Lorain	68,932	*Employees Transit Lines,Inc.	7/31/69	NA
Mansfield	47,325	*Mansfield Rapid Transit, Inc.	4/30/62	Mansfield Bus Lines, Inc.
Marietta	16,847	Marietta Bus Line	-/ -/64	NA
Marion	37,079	*Marion Transit, Inc.	2/ -/54	Springfield City Lines
Marion	37,079	*Springfield City Lines(MarionDiv)	7/31/55	Springfield City Lines
Marion	37,079	*Marion Bus Lines	11/30/62	None
Marion	37,079	Marion Bus Lines, Inc.	9/ 2/65	Marion Bus Lines,Inc.
Newark	41,790	City Rapid Transit Lines, Inc.	4/ 1/64	City Rapid Transit Lines, Inc.
Newark	41,790	*City Rapid Transit Lines, Inc.	NA	Morton Corporation
Oregon	13,319	Toledo Suburban Lines	-/ -/64	NA
Painesville	(Suburban)	*Lake County Transportation Co.	NA	NA
Portsmouth	33,637	Portsmouth City Lines	3/ 1/59	Portsmouth Transportation
Portsmouth	33,637	Portsmouth Transportation Co.	6/11/65	Inter-Cities Bus Company
Sandusky	31,989	Sandusky Rapid Transit, Inc.	8/ 2/58	Sandusky Rapid Transit Co.
Sandusky	31,989	Sandusky Rapid Transit, Inc.	NA	Sandusky Bus Line
Sandusky	31,989	Sandusky Bus Lines	11/13/69	Singler Bus Company
Springfield	82,723	Springfield Transit Company,Inc	9/ -/64	Springfield Transit Co., Inc.
Springfield	82,723	Springfield Transit Company,Inc	6/ -/69	Springfield Bus Company
Steubenville	32,495	*Valley Motor Transit Company	6/ 5/54	Steubenville Bus Company
Sylvania	5,187	Holland-Sylvania Bus Lines,Inc	1/ -/57	Community Traction Company
Tiffin	21,478	*Tiffin Public Service Corp.	NA	None
Toledo	318,003	Community Traction Company	6/ 1/71	Toledo Area Regional Transit Authority
Warren	(Suburban)	Warren-Newton Falls Transpn. Co.	5/ 1/60	Warren Suburban, Inc.

NA-Not Available. (s)Service resumed by Findlay Bus Lines 12/3/62.

City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
OHIO (Cont'd)				
Xenia	20,445	Xenia City Bus Company	3/ -/54	Xenia City Bus Company
Xenia	(Suburban)	*Xenia Bus Company	1/ 8/59	None
Youngstown	(Suburban)	Boardman Transit Company	11/ -/59	Youngstown Transit Company
Youngstown	166,689	Youngstown Transit Company	4/ 1/67	Youngstown Transit Company
Youngstown	166,689	*Youngstown Transit Company	8/ 9/70	Mahoning Valley Regional Mass Transit Authority
Zanesville	39,077	Zanesville Rapid Transit Company	1962	Y-City Transit Company
OKLAHOMA				
Bartlesville	27,893	*Bartlesville Bus Company	1956	None
Enid	38,859	Enid City Bus Lines	8/ -/60	Bryson P. Berry
Muskogee	38,059	Muskogee Electric Traction Co.	12/ -/58	Muskogee City Bus Lines, Inc.
Oklahoma City	(Suburban)	*Nichols Hill Transportation Co.	12/ -/62	City Bus Company
Oklahoma City	324,253	City Bus Company	9/ 1/66	Central Oklahoma Transpn. & Parking Authority
Shawnee	24,326	*Shawnee City Lines	NA	None
Tulsa	261,685	*Tulsa City Lines, Inc.	7/ 1/57	M.K. & O. Transit Lines, Inc.
Tulsa	(Suburban)	Tulsa Transit Company, Inc.	7/ 1/57	M.K. & O. Transit Company
Tulsa	261,685	*t)M. K. & O. Transit Lines	7/ -/68	u)Metropolitan Tulsa Transit Auth.
OREGON				
Albany	12,926	*Albany Bus Company	8/ -/57	Albany Transit Lines & City of Albany Bus Line
Albany	12,926	Albany Transit Lines	4/ 1/59	Albany Bus Service
Albany	12,926	Albany Bus Service	5/ 1/60	Albany Bus Service
Albany	12,926	*Albany Bus Service	12/31/64	Albany City Bus Lines
Astoria	11,239	Astoria Transit Company	12/22/59	Carl Smart
Eugene	50,977	*City Transit Lines of Eugene	11/25/58	Emerald Transportation Company
Klamath Falls	16,949	*Klamath Bus Company	4/30/57	Merchants Bus Company
Klamath Falls	16,949	*Merchants Bus Service	8/31/60	None
Portland	372,676	Portland Traction Company	2/ 1/56	Rose City Transit Company
Portland	(Suburban)	*Portland Traction Co. (R.R.&Term.)	1/25/58	NA
Portland	(Suburban)	*North Parkrose Bus Line	3/18/59	None
Portland	372,676	Rose City Transit Co.	12/ 1/69	Tri County Metropolitan Transpn. District of Oregon
Roseburg	11,467	*Joseph Abien	7/ -/56	None
Roseburg	11,467	Roseburg City Bus Company	12/31/57	Roseburg City Bus Company
Roseburg	11,467	Roseburg City Bus Company	2/ -/60	Roseburg City Bus Company
Salem	49,142	City Transit Lines of Salem	1/19/59	Capital Transit Lines
Salem	(Suburban)	West Salem Bus Line	4/ -/60	Capital Transit Lines
Salem	49,142	Valley Stages & Valley Suburban Lines	5/ -/66	Valley Stages & Valley Suburban Lines

NA-Not Available. (t)Franchise released. (u)Resumed service 9/1/68.

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City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
OREGON (Cont'd)				
Salem	49,142	Capital Transit Lines	7/ 1/66	City of Salem
PENNSYLVANIA				
Allentown	(Suburban)	Allentown Suburban Bus Company	1/14/55	Allentown Suburban Bus Company
Altoona	69,407	Altoona & Logan Valley Electric Railway Company	11/ 1/59	Transpn. & Motor Buses for Public Use Authority
Brentwood	13,706	Brentwood Motor Coach Company	3/ 4/64)	
	(Suburban)	Mon Valley Bus Company	6/26/64)	Port Authority of Allegheny County Transit Division
	(Suburban)	Noble J. Dick Line	6/26/64)	
Bristol	(Suburban)	Neibaver Bus Company	6/ 1/59	NA
Carbondale	13,595	Rapid Transfer, Inc.	2/21/54	None
Chester	63,658	Southern Pennsylvania Bus Co.	7/ -/60	Red Arrow, Inc.
Coatesville	(Suburban)	*Brandywine Transit Company	10/ -/57	Short Line, Inc.
Connellsville	12,814	Fayette Coach Lines	1962	Burke & Magill
Ellwood City	12,413	*Ellwood City Motor Coach Line	5/31/55	None
Erie	138,440	Erie Coach Company	1955	Erie Coach Company
Erie	138,440	Erie Coach Company	11/ 1/67	Erie Metropolitan Transit Auth.
Farrell	13,793	*Santee Bus Lines	4/ -/68	v)Traingle Bus Company
Greensburg	17,383	Greensburg City Lines, Inc.	5/ -/67	NA
Hanover	15,538	Hanover-McSherrytown Bus Co.	12/ -/54	Lincoln Bus Lines
Latrobe	11,932	*Latrobe Bus Service	1958	None
Lewistown	12,640	Lewistown Transportation Co.	1967	NA
Mahanoy City	8,536	Schuykill Transit Company	6/ 1/59	East Penn Transportation Co.
McKeesport	45,489	Penn Transit Company	3/ 2/64)	
	(Suburban)	Duquesne Motor Coach Lines	4/15/64)	Port Authority of Allegheny County Transit Division
	(Suburban)	McKeesport Transit Company	3/19/64)	
	(Suburban)	Ridge Lines, Inc.	3/ 9/64)	
	(Suburban)	Wall Bus Lines	3/19/64)	
Minersville	6,606	Franz Bus Line	1/19/54	Schuster Bus Lines
Minersville	6,606	Caruso Bus Line	1955	E Penn Transportation Company
Montoursville	5,211	Lycoming Auto Transit Company	6/ 1/60	Williamsburg Bus Company
Morrisville	(Suburban	w) *Penn Valley Transit Co.	5/ -/60	Suburban Bus Lines
New Castle	44,790	*Shenango Valley Transportation Co.	3/ 1/59	New Castle Transit Authority
Oil City	17,692	Citizens Transit Company	1956	Citizens Transit Company
Oil City	17,692	Citizens Transit Company		NA
Philadelphia	2,002,512	Philadelphia Transportation Co.	9/30/68	Southeastern Pennsylvania Transportation Auth.
Pittsburgh	604,332	Pittsburgh Railways Company	3/ 1/64)	
Pittsburgh Suburban Companies	(Suburban)	Austin Motor Coach	3/25/64)	
	"	Bacco Transit Company	3/16/64)	

NA-Not Available. (v)Resumed service November, 1968. (w)Permit revoked.

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City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
PENNSYLVANIA (Cont'd)				
	(Suburban)	Bamford Motor Coach Lines	7/10/64)	
	"	Bigi Bus Lines, Inc.	3/11/64)	
	"	Burrelli Transit Service	3/16/64)	
	"	Community Transit Service (Bridgeville & Allegheny Valley)	3/ 2/64)	
	"	Culmerville, Russelton & Cheswick Transit Company	3/31/64)	Port Authority of Allegheny County Transit Division
	"	Dawson Motor Coach	5/20/64)	
	"	DeBolt Lines, Inc.	3/ 6/64)	
	"	Deere Bros. Bus Lines	5/28/64)	
	"	Horrell Transportation Co.	3/24/64)	
	"	J.M. Ferguson Bus Line	3/31/64)	
	"	McCoy Bros. Coach Lines	3/31/64)	
Pittsburgh Suburban Companies (Cont'd)	(Suburban)	Monongahela Inclined Plane Co.	5/15/64)	
	"	New Kensington City Lines	3/ 2/64)	
	"	Ohio River Motor Coach	3/25/64)	
	"	Oriole Motor Coach Lines	3/12/64)	
	"	Poskin Bus Lines	3/ 6/64)	
	"	Roger's Transit Line	3/ 3/64)	Port Authority of Allegheny County Transit Division
	"	Shaffer Coach Lines	3/ 3/64)	
	"	Trafford Coach Lines	3/12/64)	
	"	Wm. Penn Motor Coach	3/31/64)	
Pittsburgh	"	*Harmony Short Line	3/31/61	None
Pottstown	26,144	Pottstown Rapid Transit Co.	1/22/62	Brile Brothers
Sharon	25,267	*Shenango Valley Transpn. Co.	11/14/58	None
Uniontown	(Suburban)	Uniontown Hospital Bus Co.	1961	NA
Wilkes-Barre	63,551	Wilkes-Barre Transit Corp.	8/ -/58	Wilkes-Barre Transit Corp.
Williamsport	41,967	Williamsport Transportation Co.	5/ -/55	Williamsport Bus Company
Williamsport	41,967	Williamsport Bus Company	8/ -/69	Bureau of Transportation of the City of Williamsport
York	54,504	York Bus Company	10/ -/54	York Bus Company
York	54,504	York Bus Company	12/ -/69	None
RHODE ISLAND				
Newport	47,049	Short Line, Inc.	8/ 1/56	Transit Lines, Inc.
North Tiverton	(Suburban)	Massey Coaches	9/ -/58	Short Line Bus Company
Providence	(Suburban)	Johnson Bus Lines, Inc.	5/ 1/63	Short Line, Inc.
Providence	207,498	United Transit Company	7/ 1/66	Rhode Island Pub. Transit Auth.
Woonsocked	47,080	*Rhode Island Public Transit Auth.	9/ -/64	None

NA-Not Available.

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City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
SOUTH CAROLINA				
Greenville	66,188	Duke Power Company	6/ 7/55	Greenville City Coach Lines
Sumter	23,062	*Sumter Transit Company	2/25/59	B & H Bus Lines
West Columbia	(Suburban)	Suburban Transit Company	NA	South Carolina Electric & Gas Co.
SOUTH DAKOTA				
Aberdeen	23,073	Hyde Hub City Lines	NA	None
Sioux Falls	65,466	Sioux Falls Transit, Inc.	1/ 2/59	Sioux Transit, Inc.
TENNESSEE				
Clarksville	22,021	Clarksville Transpn. Co.	3/ -/58	Clarksville Transit Co.
Clarksville	22,021	*Clarksville Transit Authority	NA	None
Jackson	34,376	Jackson City Lines Corp.	4/ 4/66	Jackson Transit Authority
Knoxville	111,827	Tennessee Coach Company	1960	Trailways Bus System
Knoxville	(Suburban)	Local Transit Bus Line	3/ 9/64	Valley Bus Line
Knoxville	111,827	Knoxville Transit Lines	10/17/67	City of Knoxville
Maryville	(Suburban)	*White Star Lines	NA	NA
Memphis	497,524	Memphis Transit Company	1/ 8/61	Memphis Transit Authority
Memphis	(Suburban)	Yellow Bus Lines	12/ 1/61	Memphis Transit Authority
TEXAS				
Abilene	90,368	Abilene Transit System	10/23/64	Abilene Transit System(Municipal)
Amarillo	138,969	Amarillo Bus Company	11/27/66	Amarillo Transit System
Austin	186,545	Austin Transit, Inc.	6/ 1/55	Austin Transit Corporation
Austin	186,545	*Austin Transit Corporation	7/31/70	Transportation Enterprises, Inc.(x)
Big Spring	31,230	*Bucher Bus Lines	-/ -/64	NA
Big Spring	31,230	*City Transit, Inc.	3/15/60	None
Borger	20,911	*Borger City Bus Company	1954	None
Brownwood	1,286	*Heart of Texas Stages	1955	None
Brownwood	16,974	*Brownwood Transpn. Co.	7/ -/64	None
Corpus Christi	167,690	Nueces Transportation Company	10/ 1/66	Corpus Christi Transit System
Dallas	679,684	Dallas Transit Company	1/ 1/64	Dallas Transit System
Denton	26,844	*Denton Bus Lines	3/31/61	None
Gainesville	13,083	*City Bus Line	7/ -/57	None
Galena Park	10,852	Galena Park Bus Line Company	1962	Rapid Transit Lines (Houston)
Greenville	19,087	*Greenville City Bus Company	2/26/57	None
Haltom City	23,133	Haltom City Bus Company	1958	Haltom City Transit Service
Houston	938,219	Houston Transit Company	6/ 1/61	Rapid Transit Lines, Inc.
Houston	938,219	Rapid Transit Lines, Inc.	2/ -/66	Rapid Transit Lines, Inc.
Houston	(Suburban)	Pioneer Bus Company, Inc.	12/ -/61	Pioneer Bus Company, Inc.
Houston	(Suburban)	Pioneer Bus Company	9/15/67	Rapid Transit Lines
Kingsville	25,297	*Kingsville Airfield Bus Co.	1966	None
Longview	40,050	*Longview Transit Company	Approx.1957	Transit & Taxi Co. of Longview,Inc
Longview	40,050	*Longview Transit Company	1957	City Bus Company

NA-Not Available. (x)Franchise Cancelled.

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City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
Lufkin	17,641	*Lufkin Transit Company	1954	None
McKinney	13,763	*McKinney Bus	1956	None
Midland	62,625	*Midland Bus Corporation	1954	None
Odessa	80,338	*Odessa City Bus, Inc.	-/ -/65	None
Orange	25,605	*Orange City Bus Lines	1967	NA
Pampa	24,664	*Pampa Bus Company	1956	None
Paris	20,977	Paris City Bus Company	12/24/57	NA
Paris	20,977	*Paris City Lines	1/ 1/62	None
Port Arthur	66,676	*Port Arthur Transit Corp.	5/ 3/70	None
San Antonio	587,718	San Antonio Transit Company	5/ 1/59	San Antonio Transit System
Temple	30,419	Southwestern Transit Company	1954	Temple City Bus Company
Texarkana	30,218	*Texarkana Bus Company, Inc.	3/ 3/56	Twin City Transit Company
Texarkana	50,006	Lone River Bus Company	-/ -/63	NA
Tyler	51,230	Tyler Transit Company	5/13/59	Tyler City Lines
Victoria	33,047	*Victoria Transit Company	1955	None
Waco	97,808	Waco Transit Company	6/ 1/55	Waco Transit Corporation
Whichita Falls	101,724	Whichita City Lines	4/15/71	City of Whichita Falls
Ysleta	(Suburban)	*Lower Valley Bus Line	NA	NA
UTAH				
Salt Lake City	189,454	Lake Shore Motor Coach Lines, Inc.	12/ -/65	Lake Shore Motor Coach Lines,Inc.
Salt Lake City	189,454	Salt Lake City Lines	8/10/70	Utah Transit Authority
VERMONT				
Rutland	46,719	*Rutland Bus Company	1966	None
VIRGINIA				
Bedford	5,921	*City Transit, Inc.	1956	NA
Charlottesville	29,427	Charlottesville & Albemarle Bus Co	4/16/64	Yellow Cab & Transit Company
Petersburg	36,750	*Petersburg Transit Company	7/22/56	Petersburg & Hopewell Bus Lines.
Portsmouth	114,773	Portsmouth Transit Company	9/17/61	Community Motor Bus Company
Scottsville	(Suburban)	Scottsville Bus Line	NA	Scottsville Motor Lines
Waynesboro	15,694	*City of Waynesboro Bus Division	7/ 1/58	None
WASHINGTON				
Bellingham	34,688	Bellingham Transit System.	4/ 1/66	Bellingham Transit System
Centralia	(Suburban)	*Twin City Transit Company	6/27/59	None
Chehalis	5,199	*Twin City Transit Company	7/ 1/59	None
Everett	40,304	Everett City Lines, Inc.	2/28/61	Everett Bus System, Inc.
Everett	40,304	Everett Transit System	12/ 1/69	Everett Bus Company
Renton	25,000	*Lake Shore Lines, Inc.	1966	None
Renton	(Suburban)	Lake Shore Lines	5/15/63	Overlake Transit, Inc.
Seattle	(Suburban)	*Purse Stage Lines	1/20/61	None
Seattle	(Suburban)	Suburban Transportation System	12/31/62	Overlake Transit, Inc.
Tacoma	147,979	Tacoma Transit Company	12/ -/54	Tacoma Transit Company
Tacoma	147,979	Tacoma Transit Company	5/ 1/56	x) Same Company
Tacoma	147,979	Tacoma Transit Company	2/ 1/61	Tacoma Transit System (Municipal)

NA-Not Available.

(x)Lease agreement with City of Tacoma, Inc.

City	Population 1960 Census	System	Date Sold or Service Discontinued	Successor System
WASHINGTON (Cont'd)				
Vancouver	32,464	Vancouver Bus Lines	3/ -/65	Vancouver Bus Lines
Vancouver	32,464	Vancouver City Lines	NA	City of Vancouver
Walla Walla	24,536	Walla Walla City Lines, Inc.	10/ 1/55	Walla Walla System
Wenatchee	16,726	Wenatchee Transit Company	1962	Wenatchee Transit System
Yakima	43,284	Vancouver-Portland Bus Company	2/17/60	Vancouver-Portland Bus Company
Yakima	43,284	Yakima City Bus Lines	10/ 1/66	Transit Dept. of City of Yakima
WEST VIRGINIA				
Follansbee	4,052	*F & H Bus Company	1956	None
Parkersburg	44,797	City Lines of Parkersburg, Inc.	8/28/69	Park Transit Company
Williamson	(Suburban)	Scot-Nichols Bus Company, Inc.	1957	Mac's Bus Company
Williamson	6,746	*Mac's Bus Company	1959	None
WISCONSIN				
Appleton	48,411	Appleton & Intercity Motor Coach Lines, Inc.	10/16/55	Appleton & Intercity Motor Coach Lines, Inc.
Appleton	48,411	Appleton & Intercity Motor Coach Lines, Inc.	8/ 1/57	Fox River Bus Lines
Beaver Dam	13,118	*Beaver Dam Transit Lines	2/25/55	None
Beloit	32,846	*Beloit Bus Company	5/21/59	None
Fond du Lac	32,719	Fond du Lac Motor Coach Lines, Inc.	10/16/55	Fond du Lac Transit Lines, Inc.
Hurley	2,763	*Calvetti Transportation Co.,Inc.	10/ 3/61	NA
Hurricane		Teays Valley Bus Line, Inc.	7/ -/55	NA
Kenosha	67,899	Kenosha Motor Coach Company	11/11/62	Lake Shore Transit-Kenosha,Inc.
Kenosha	67,899	*Lake Shore Transit-Kenosha,Inc.	Early 1969	NA
Madison	126,706	Madison Bus Company	5/ 1/70	Madison Service Corporation
Merill	9,451	Wausu Transit Lines, Inc.	12/ 4/54	Merill City Lines
Oshkosh	45,000	Oshkosh City Lines, Inc.	2/ 1/62	City Transit Lines,Inc.
Racine	89,144	Racine Motor Coach Lines,Inc.	11/11/62	Lake Shore Transit-Racine,Inc.
Racine	(Suburban)	Lake Shore Line	11/11/62	Lake Shore Transit, Interurban,Inc
Sheboygan	45,747	Sheboygan City Lines	10/16/55	Sheboygan Transit Lines
Sheboygan	45,747	Sheboygan Transit Lines	2/ 1/58	Sheboygan Bus Lines
Two Rivers	12,393	*Two Rivers Transit, Inc.	1954	z) None
WYOMING				
Casper	38,930	*Rapid City Transit Company	5/ 1/58	None
Casper	38,930	*Cowboy Transportation	11/11/67	NA
Cheyenne	43,505	Cheyenne Motor Bus Company	10/ 5/58	City Transit Company
Cheyenne	43,505	City Transit Company	10/15/58	City Transit Company
Cheyenne	43,505	*City Transit Company	3/28/59	None

NA-Not Available. (y)Service resumed by Beloit Bus Lines, Inc. (z)Only school bus service furnished in this city.

ADDITIONS TO SALES AND ABANDONMENTS LIST DATED JULY 1971

City, State, and company	Data	Civilian authorities
Albany, N.Y., Unitad Traction Co	(1)	Capital District Transportation Authority
Albemarle, N.C., Powar City Linas, Inc.*	(1)	None.
Atlanta, Ga., Atlanta Transit System	Mar. 1, 1972	Atlanta Transit System Division.
Aurora, Ill., Aurora City Lines	Feb. 1, 1970	Aurora Transit Authority.
Canton, Ohio, Canton City Lines*	Jan. 1, 1971	Canton-North Canton Rag. Transit Authority.
Charleston, W. Va., Charleston Transit Co	Oct. 25, 1971	Kanawha Valley Reg. Transit Authority
Eugene, Orag., Emerald Transportation Systam, Inc	Nov. 23, 1970	Lane County Mass Transit District.
Evansvilla, Ind., McCleary Coach Lines*	Nov. 1970	Evansville-Matro Transit System.
Flint, Mich., Flint Transit Authority*	(1)	Mass Transit Authority.
Lincoln, Nebr., Lincoln City Lines	July 15, 1971	Lincoln Transit Systam.
Palo Alto, Calif., Peninsula Transit Lines	Dec. 1, 1963	City of Palo Alto.
Rockford, Ill., Rockford Transit Corp	Mar. 1, 1971	Mass Transit District.
Santa Barbara, Calif., Santa Barbara Transit Co.*	June 1969	Matropolitan Transit District.
Syracuse, N.Y., Syracusa Transit Corp	Jan. 17, 1972	Central New York Reg. Transit Authority.
Tampa, Fla., Tampa Transit Lines*	Apr. 1, 1971	Tampa Bus Co.
Wast Palm Beach, Fla., Transit Co. of the West Palm Beaches	Aug. 2, 1971	Florida Transit Managament Co.

[1] Not available.

Sourca: American Transit Association.

Supporters of the Committee provisions argue that transit workers need financial protection under the Fair Labor Standards Act. The Bureau of Labor Statistics indicates, however, that the average annual wage of transit employees was $10,014 on December 31, 1971. Their average hourly wage on that datc cxceeded $4.00 an hour, without including fringe bencfits. Additionally, wage rates for local transit employees rose 8.5 percent between July 1, 1970 and July 1, 1971. During this period the consumer price index rose only 4.5 percent.

The Committee provisions regarding transit employees are defective in their consideration of charter work. The Committee Bill states that "voluntary" hours would not bc included in a computation of overtime hours. This measure gives employees a financial incentive collectively to refrain from volunteering for charter work and thereby force the companies to pay time and a half for the same work. The bill provides that charter work would not be used in computation of overtime hours if such work was not a part of the employee's regular employment and he volunteered. This requirement is meaningless where charter work is a regular part of the employees business. In effect the bill may require transit companies to pay time and a half for non-driving time during a charter trip.

The Committee did not consider the fact that a large number of bus companies have worked out by collective bargaining the concept of a standard work day and work week. This cstablishes a range of hours without the imposition of overtime pcnalty. Often these agreements provide that report and turn-in (or pull-in) time at the beginning and end of a run is to bc an arbitrary addition to the pay at straight time—irrespective of the actual length of the run. Thus, if a run is only seven hours in driving time, the employer must pay one hour of guarantee or make-up time to the eight hour minimum plus the daily allowances for report and turn-in time.

The Committee demonstrates an alarming lack of awareness of the financial problems facing our nation's transit systems. If the Committee provision were to bc adopted, transit fares would be increased, additional transit firms would be forced out of business, and service would

be greatly curtailed. These actions would most severly affect low income and minority group citizens who depend on transit services to go to work each day. Moreover, the Committee bill can only be interpreted as a severe blow to the nation's goals of reducing auto pollution and channelling more commuter traffic into mass transit systems.

F. YOUTH

Current law establishes wage rates for youths at no less than 85 percent of the statutory minimum. This applies to full time students working part-time in retail or service establishments and agriculture and student-learners in vocational training programs.

The Committee bill is similar to existing law except that educational institutions would be able to employ full time students on a part-time basis at 85 percent of the minimum wage. Our substitute would replace the existing complicated certificate system with a new system designed to reduce youth unemployment. The new system would be applicable to all youths under 18 and full time students under 21. Youths employed in non-agricultural work would receive $1.60 or 80 percent of a $2.00 applicable minimum rate. Youths employed in agricultural work would receive $1.30 or 80 percent of the applicable minimum rate. In each instance, the higher figure of the two alternatives would prevail. Additionally, the Secretary of Labor would be required to adopt regulations to insure that adults would not be displaced from employment opportunities by the lower rates.

The burden of an increased minimum wage falls heaviest on those least able to justify their employment, especially the young. The ratio of teenage to adult unemployment rates has tended to rise, while the proportion of the total labor force in the 16–19 age group has also been rising. The ratio of teenage unemployment to total unemployment has also risen every time the minimum has been increased. Statistics also indicate that young blacks suffer the most from minimum wage increases. Prior to 1956 non-white and white male teenage unemployment rates were approximately the same. In 1956 the $1.00 minimum wage went into effect and the non-white teenage rate became almost 50% greater than that for white male teenagers. In 1965 the minimum wage was raised to $1.25, and the unemployment rate in the non-white group soared in 1966 to a level 100% greater. In February 1967, the $1.40 minimum wage was set and the non-white unemployment figure became 120% greater.

As for the first quarter of 1971 non-white teenage unemployment was 31.8% compared to 15.7% for white youth.

The adverse effect of minimum wage increases on minority youth unemployment is even more apparent when the statistics are examined over the last twenty year period and when labor force participation rates are taken into account. On this basis, the adjusted unemployment rate among non-white, male teenagers has sky-rocketed to a level of 370% above that for the white group.

The most recent and extensive examination of the relation between minimum wage legislation and teenage unemployment, was completed by Marvin Kosters and Finis Welch for the Office of Economic Opportunity. Mr. Kosters, a Senior Staff Economist to the Council of Economic Advisers, and Mr. Welch, a research fellow associated with

the National Bureau of Economic Research, concluded that minimum wage laws improve the employment opportunities of high wage-earners (adult—whites) and diminish the opportunities of low wage-earners (teenagers and minority groups). Kosters and Welch recommended a differential even greater than the one contained in our substitute. They suggested that all persons who are in school or have less than two years of post-school work experience be exempted from further minimum wage increments. They suggested that the important thing is for youth to be given an opportunity to work. If they choose young people should be permitted to become involved in apprentice programs.

Opponents to the youth differential argue that (1) a lower teenage minimum would discriminate against older adult workers and simply shift unemployment from teenagers to adult workers; (2) a lower minimum wage would reduce the wages of teenagers who otherwise would be working at the standard minimum wage; and (3) teenagers will not take jobs at a subminimum wage. None of these arguments is based on factual analysis.

The argument that a lower teenage minimum would discriminate against older workers and thus displace adults is the most often cited reason for opposition to a youth differential. It is important to remember, however, that the youth differential is only applicable to youths under 18 and full time students under 21. Thus the category of prospective employees is largely limited to students, as the average age of a high school graduate in this country is 18.1 years. Thus, the type of job opportunities sought will be part-time and vacation oriented. Seasonal, recreational positions, training and intern positions, and marginal service employment are the employment opportunities most sought after by youths. These are the types of jobs adults do not actively seek, and in fact very often adults refuse to consider these types of positions. For example, how many adults seek lifeguard positions?

If there would be any adult employment displacement, as a result of youth differential (a notion which has never been statistically proven), it would be so small and so limited as to have no discernable effect on the adult job market. The adults involved, if any, would be those who do not have the skills or experience to obtain better employment and should be provided with manpower training. They should not be left for the rest of their lives to keep fighting for marginal employment positions.

Second, it is argued that a lower minimum wage for youth would reduce the wages of teenagers who otherwise would be working at the standard wage. This argument falsely assumes, however, that the same number of jobs for youth would be available at the minimum rate established in the Committee bill and the rate established under the youth differential in the substitute. As mentioned previously, job training and seasonal employment are the two main areas that most vitally concern youth. It is interesting to note that the Committee left in the Fair Labor Standards Act the exemption for both minimum wage and overtime for seasonal amusement parks that operate less than seven months a year. The Committee's rationale for this action was that youth were primarily employed in these types of positons and that they did not want to destroy these job opportunities by applying the

minimum wage. It is difficult to understand the Committee's opposition to a youth differential given its thinking in this area.

An even more compelling reply, however, can be given in the field of job training and placement. In this area the rate of pay is not the important factor. The prime objective is finding an employer who is willing to train an individual. The objective for on-the-job training is especially important for our country's vocational education programs. Mr. William L. Warner, Vocational Program Director for the Stillwater Minnesota School District, recently conveyed the following to me in a letter:

> I wish to express my support of the Substitute Minimum Wage Bill allowing a wage differential for working youths. The differential would have great advantages for students who are seeking vocational training, who do not have work experience in their background, a chance for job opportunities . . . The wage differential would give the students an 'edge' in obtaining jobs for attaining their vocational objective. At the present time the teacher-coordinators of each of the programs have some difficulty in placing all the students who want employment.

Mr. Dale C. Laux, Program Manager for the Cleveland Ohio Manpower Training Center, recently also conveyed similar thoughts to me. Mr. Laux stated that a "youth differential was essential to provide employment and training opportunities for students and trainees involved in the Manpower Program".

Third, it is argued that youth will not take jobs that are available at an adult sub-minimum wage. For on-the-job training and apprenticeship programs this is simply not true. More students and trainees are seeking employment under these programs than can be placed.

In the non-vocational and training areas the demand by youths for jobs greatly surpasses the supply. Most of our nation's communities have instituted programs to increase the number of summer and part-time employment opportunities. The Federal Government alone this year will spend $377.6 million to create 865,322 summer jobs. The National Alliance of Businessmen is committed to create 336,000 summer jobs. The Department of Labor, Bureau of Labor Statistics, however, estimates an additional 1.3 million summer jobs will need to be created.

The principal concern of most young people is to obtain a job. The youth differential provides youth with this opportunity. It enables youth to gain valuable on-the-job training. Most important, however, the youth differential approach provides an opportunity for youth to become oriented in terms of pursuing employment opportunities. While some youth will be subject to a differential pay standard, many of them will be living at home and their standard of living will not suffer. What young people want more than anything is a chance to work.

G. MINIMUM WAGE RATE

The Committee bill increases nonagricultural employees currently subject to the $1.60 an hour minimum to $2.20 an hour. Nonagricultural employees covered prior to 1966 would be raised to $2.00 an hour sixty days after enactment and to $2.20 an hour one year thereafter.

Nonagricultural employees added to coverage in 1966, and those added to coverage in the current Committee bill, would be raised to $1.80 an hour sixty days after enactment, $2.00 an hour one year after, and $2.20 an hour the following year. These increases amount to a 37.5 percent increase in 26 months. The minimum wage for agricultural employees under the Committee bill is raised from the current $1.30 an hour level to $1.60 an hour sixty days after enactment, $1.80 an hour one year later, $2.00 an hour two years later, and $2.20 an hour the following year. This is a 69.2 percent increase in 38 months.

The Committee bill also extends coverage to 8.4 million workers and newly to 344,000 establishments. The total wage cost would be in excess of $7.2 billion not including increments in fringe benefits and the added upward push of labor costs generally due to the ripple effect. We believe in light of the relatively high unemployment and inflationary pressures on the economy, the Committee's action in this area is economically irresponsible, inflationary, and in direct opposition to the goals of the Economic Stabilization Program.

We believe a far more realistic and equitable approach to be outlined is in our substitute proposal. The substitute increases the minimum wage for nonagricultural employees covered prior to 1966 to $1.80 an hour sixty days after enactment, and to $2.00 an hour a year later. The minimum wage for nonagricultural workers covered by the 1966 amendments to $1.70 an hour on enactment, $1.80 an hour a year thereafter, and $2.00 an hour the following year. The minimum wage for agricultural employees under the substitute would be increased to $1.50 an hour sixty days after enactment, and to $1.70 an hour a year thereafter.

Proponents of the Committee bill cite the added cost of living as the primary necessity for a $2.20 minimum wage, but an increase in the minimum wage helps the low-wage worker only to the extent that it is not dissipated in higher prices nor results in disemployment. Additionally, inflationary impacts of increases in the minimum wage are minimized only to the extent that minimum wage increases are absorbed by profits. However, corporate profits, after taxes were only 4.2 percent of the GNP in 1970—several times the anticipated impact of proposed legislation. Profits have also been declining, being lower absolutely in 1970 than in any year since 1964, and lower as a share of GNP than in any year since 1938.

Proponents of the Committee approach argue that inflation can be avoided and profits maintained if productivity is increased. This euphoric view, i.e., that minimum wage increases accelerate productivity gains, is at variance with past trends in low-wage industries. The gain in productivity, output per manhour in the private nonfarm economy, was only 3.8 percent between 1967 and 1970, far below the long term trend. Low productivity has been particularly true of low-wage trade and services, whose productivity gains lag substantially behind those of the economy as a whole although these are the industries most directly affected and therefore the most stimulated by wage increases. The same industries have borne the brunt of adjustment to higher minimum wages repeatedly and it seems improbable that they would be able continually to compensate through increases in productivity. Low wage industries generally are characterized by low profit

rates, small size of firm, little investment in research and development, and are not likely to advance rapidly in productivity.

There is nearly universal agreement that an excessive increase in the minimum wage can result in large scale unemployment of labor and a high rate of business failure. (This is especially true for small retail business as previously mentioned.) Numerous before-and-after studies of low-wage manufacturing industries, of low-wage firms within their industries, and of their industries in low-wage regions have provided evidence that raising the minimum wage has reduced employment (see *Employment Effects of Minimum Wage Rates;* Washington: American Enterprise Institute, August, 1969, Chapters III–V). The most convincing evidence is the comparison of high impact (low-wage) and low-impact (relatively high wage) establishments in the same industry. The most thorough attempt to evaluate the impact of increases instituted by minimum wage legislation was conducted by the New York State Department of Labor. The New York survey found that employers affected by the increased wage rates took a variety of actions to adjust to the higher costs. Weekly payroll savings were achieved by reduced hours, layoffs, and nonreplacement of voluntary workers. Five percent of the stores in the study also reported reduction in hiring extras. Altogether, 1,000 employees reportedly lost their jobs as a result of the increase in minimum wage, and another 500 who quit were not replaced.

Additionally, it is interesting to note a recent article appearing in the *Southern Economic Journal* entitled "State Minimum Wage Laws as a Cause of Unemployment". The authors, Mr. William J. Shkurti and Mr. Belton M. Fleisher, found unemployment rates higher in states with minimum wage laws than in states without them, and found an increase in the differential whenever states raised their minimum wages.

In light of the impressive economic arguments against increasing the minimum wage, proponents still argue however, that a large increase in the minimum wage is necessary to reduce poverty and the minimum wage effect on employment is both limited and indirect. Family income depends on the number of wage earners in the family and on the number of hours they work per year, more than on the hourly wage rate. A large proportion of the poor would receive no possible benefit from a higher minimum wage and extended coverage because they have no family member employed. Most of the other poor families do not have a full time year-round earner; that is the major reason they are poor. Only 21.6 percent of the heads of poor families worked full time for the full year, 47.8 percent of the heads did not work at all, and only 37.5 percent of the income of families with a total money income of less than $4,000 consisted of wages and salaries. Thus, many of the beneficiaries of a higher minimum wage are not the truly poor; they are individuals without dependents, or members of families with other wage earners; many are secondary wage earners. Further, a higher minimum wage hurts those workers it is intended to help by pricing marginal workers out of the labor market, by reducing the rate of new job creation for low-skill, low-productivity workers whose contribution to output may be lower than the rate of pay a higher minimum would be required to justify.

Congress should seriously consider the advice of Professor James Tobin, a former member of the Council of Economic Advisers under Persident Kennedy, whow rote:

> People who lack the capacity to earn a decent living should be helped, but they will not be helped by minimum wage laws, trade union pressures or other devices which seek to compel employers to pay more than their work is worth. The likely outcome of such regulations is that the intended beneficiaries are not employed at all.

In addition, to all the previously mentioned problems, the Committee bill places an added burden in the form of higher prices on the nation's consumer. Congressman John Anderson of Illinois brought this point of concern to the attention of the House of Representatives on May 11 during the floor debate of minimum wage legislation. Congressman Anderson stated:

> I am somewhat amazed at the very people who rail about high prices, who talk about the ineffectiveness of Phase II. Now, they want to slice the very heart out of an attempt to restrain the cost-push that has been ravaging the economy of this country.
>
> Let me remind you that this is not only the new age of so-called populism. This is the new age of consumerism. The consumers are unhappy about the high price of food, about the threatened increase in the price of shoes and clothing and all of the other market basket items.

The Committee bill in sum certainly provides a bleak outlook for many of the nation's working poor as they face: higher prices for food, products, and services, possible curtailment or abandonment of services including the closing of the neighborhood grocery and the loss of their only way to work—the bus; higher taxes due to increased burden of state and local governments; and most important, even face the potential loss of their jobs—but we suppose the ex-workers could say that if they had jobs they *would have* received a $2.20 minimum.

Finally, I wish to subscribe generally to the positions taken by Senator Dominick in his minority views.

June 8, 1972.

Bob Taft Jr.
Bob Packwood.
Peter H. Dominick.

ADDITIONAL MINORITY VIEWS OF MR. DOMINICK

I share entirely the views expressed in "Minority Views of Mr. Taft, Mr. Dominick, and Mr. Packwood," but feel strongly enough about this legislation to reemphasize my position on what I see to be the most important issues. I voted against S. 1861 as reported for essentially two reasons. First, I think the minimum wage increases and extensions of coverage for which it provides are excessive, and would have serious inflationary and unemployment effects jeopardizing continued improvement of the economy. Second, it would do nothing to reduce the alarmingly high youth unemployment rate, and in fact would be likely to worsen it.

It is pretty clear that the adverse impact of the Committee bill would be felt most acutely by those who are the most vulnerable: independent farmers, who even with numerous federal assistance programs are able to maintain only a marginal standard of living, and are rapidly disappearing from the American scene; small businessmen, who unlike their large corporate competitors, do not have the profit margins or the diversification to absorb radical increases in labor costs; marginal workers—the young, the handicapped, the elderly, the poor—who would be priced out of the job market; and consumers, who would be forced to pay higher prices necessitated by large increases in labor costs across all segments of the economy.

EXCESSIVE WAGE INCREASES

Under the Committee bill, the minimum wage for workers covered by the Fair Labor Standards Act prior to 1966 would go from $1.60 an hour to $2.00 sixty days after enactment, and to $2.20 a year later. This amounts to a 25% increase within sixty days, and a 37.5% increase within 14 months. Workers first covered by the Committee will would receive the same increase within a little over two years. The minimum rate for farm employees would go from $1.30 to $2.20 within a little over 3 years—a 69.2% increase.

These wage increases, combined with the extended coverage to 8.4 million additional employees would result in an increase of $7.2 billion in the nation's annual wage bill. This estimate includes only the direct cost of raising wages to the higher minimum rates. It does not include increased overtime costs resulting from the higher minimum rates. Nor does it include the "ripple effect" costs of raising wages which are above the minimum rates in order to maintain existing wage differentials after the higher rates go into effect.

IMPACT ON SMALL BUSINESSMEN AND FARMERS

These precipitous increases in wage costs over such a short time will be difficult for many employers—particularly small businesses—to

absorb. The 1966 amendments extended minimum wage and overtime coverage to 649,000 smaller firms. The minimum rate for employees of these firms went from $1.00 an hour in 1966 to $1.60 on February 1, 1971—a 60% increase. The Committee bill would further raise the minimum rate for these employees to $2.20 in a little over 2 years—an increase of 37.5%, affecting about 3.5 million employees at a cost of $2.7 billion. The total increase since 1966 for these small firms would amount to 120%.

The retail and service industries, which encompass most small businesses, would be particularly acutely affected, since they are highly labor intensive. (Labor costs average more than 60% of operating costs in the retail industry). These industries hire a large proportion of the labor force's unskilled and marginal workers. About 50% of employees of retail firms earn less than $2.00 an hour; 65% earn less than $2.20. About 40% of employees of service firms earn less than $2.00; 51.7% earn less than $2.20. Since profit margins are too low in these industries (retail firms average 2%) to absorb the radical wage increases mandated by the Committee bill, employers would be forced to raise prices, reduce employment, or a combination of both. Some may have no alternative but to go out of business. There were 10,321 small business failures last year, 4,428, or 43% of which were retail firms. Moreover, under Economic Stabilization guidelines, retail firms cannot raise prices to pass through increased operating costs—including labor costs.

The farm economy would also be seriously affected. A 69.2% increase in minimum wage rates over three years could only accelerate the already too rapid decline of farm employment in this country. At a time when per capita farm income is 25% lower than non-farm income, and virtually everyone is lamenting the fact that small independent farms are being supplanted with big corporate farms, I don't think it would make sense to require them to absorb an additional $174 million in annual wage costs.

Inflation and unemployment

The impact on the Economic Stabilization Program of the wage increases recommended in the Committee bill can almost be characterized as "fatal". The combined effect of the direct costs of raising minimum rates and the indirect "ripple effect" costs would exert enormous inflationary pressures on the entire economy, making the 5.5% wage guideline and the 2.5% price guideline difficult, if not impossible, to enforce.

These guidelines are based on long-term productivity growth rates of about 3% annually. It is worth noting that while the average annual increase in output per man-hour for the post-war period 1947–1965 was 3.5%, it dropped to 2% for the five year period 1966–1970, the slowest growth in productivity for any 5-year period since the war. Certainly no one can argue that the wage increases in the Committee bill are related to productivity, or that they in any way enhance productivity. Wage increases which are not related to increases in productivity are, of course, reflected in higher prices, and ultimately in trade deficits due to the inability of American-produced goods to compete in the world market.

The unemployment effects of S. 1861 as reported would be equally serious. Marginal workers who have the greatest disadvantages in

competing for jobs—the unskilled, teenagers, the handicapped, and the elderly—would be the most severely affected.

To the extent that employers could not absorb the enormous wage costs mandated by the Committee bill through increased prices and reduced profits, they would be forced to eliminate jobs. Jobs held by low-skilled, inexperienced, and less productive workers would be the first to go. Ironically, these low wage earners are the very ones minimum wage legislation is intended to help.

While the complexity of our economy, and inadequate data make it difficult to measure with precision the impact of minimum wage adjustments on unemployment, there are several well-regarded studies which demonstrate that minimum rate increases evoke corresponding increases in unemployment rates for marginal workers. The most thorough and persuasive analysis I have seen is by John M. Peterson and Charles T. Stewart, Jr., "Employment Effects of Minimum Wage Rates", published by the American Enterprise Institute. After carefully reviewing all the available evidence, they conclude:

> Both theory and fact suggest that minimum wage rates produce gains for some groups of workers at the expense of those that are the least favorably situated in terms of marketable skills or location.
>
> Within low-wage industries, higher-wage plants gain at the expense of the lowest-wage plants. Small firms tend to experience serious profit losses and a greater share of plant closures than large firms. Teenagers, non-whites, and women (who suffer greater unemployment rates than workers in general) tend to lose their jobs, to be crowded into less remunerative noncovered industries, and to experience more adverse changes in employment than other workers. Depressed rural areas, and the South especially, tend to be blocked from opportunities for employment growth that might relieve their distress. Given these findings, the unqualified claim that statutory minimums aid the poor must be denied. The evidence provides more basis for the claim that while they help some workers they harm those who are least well off.

President Johnson's Council of Economic Advisers warned about the unemployment effects of excessive minimum wage increases in their 1969 annual report:

> "Although increases in the minimum wage are likely to be reflected in higher prices, society should be willing to pay the cost if this is the best way to help low-wage workers. Yet excessively rapid and general increases in the minimum can hurt these workers by curtailing their employment opportunities.
>
> Since 1956, the Federal minimum has gone up about in line with average hourly compensation, while coverage has progressively expandd to cover low-wage industries. In considering the future rate of increase for minimum wages, careful scrutiny should be made of the possibility of adverse employment effects. The benefits of higher minimums should

be weighed against alternative ways of helping low-wage workers."

I think we should heed their advice and exercise restraint in adjusting minimum rates this year, particularly in light of current economic conditions.

The overall teenage unemployment rate is about 17.5% now—more than 3 times the adult unemployment rate. The rate for minority teenagers is even more alarming—31.7%. The rate for black teenagers is about 41%. With the increase recommended in the Committee bill, these rates could only go up.

There is a shortage of jobs for low skilled workers now. The number of low skilled workers has increased more rapidly over the last 10 years than the number of low skill jobs. During the 10-year period 1959–1969, low skill jobs increased at less than 10% of the rate at which other jobs increased in the manufacturing, retail and service industries. Excessive minimum wage increases would further retard the growth of these low-skill jobs, worsening a problem with which our economy has not yet demonstrated an ability to deal effectively.

In view of the predictable inflationary and unemployment effects, I think it would be irresponsible for Congress to enact the excessive wage increases proposed in S. 1861 as reported. This view is shared by Donald Rumsfeld, Director of the Cost of Living Council. On May 23rd, he said:

"All who are serious about wanting to reduce inflation and achieve true peacetime prosperity, must carefully assess the potential impact on unemployment and inflation of the minimum wage legislation now pending in the U.S. Senate. Any proposal which fails to take into account the upward pressure on prices, generated by an abruptly higher minimum wage, poses a threat to the national effort to stabilize costs and prices.

"While the direct impact on the total wage bill and on prices of so large an increase in the minimum wage is great, its indirect effects will likely be even more substantial. Adjustment of the Pay Board standards might be necessary to maintain customary wage differentials for workers with higher skill levels, which would result in a significant escalation in labor costs. Those most in need of jobs for the income and work experience they provide will find it more difficult to compete for jobs when employers are prohibited from hiring them at wage levels commensurate with their skills.

"Such a large and abrupt change in the minimum wage will lead to additional wage increases for some, which will be paid for by the low income wage earner in the form of lost employment opportunities, and by the American consumer in the form of higher prices. At a time when the Nation is embarked on an effort to reduce inflation, reduce unemployment, and expand job opportunities, the Senate should weigh carefully any proposal which requires large increases in wages and costs."

Senator Taft and I offered an amendment in Committee which proposed what we consider to be reasonable increases in minimum wage rates. Under our amendment, which is almost identical to the House-passed bill, the minimum rate for non farm workers covered prior to 1966 would go to $1.80 sixty days after enactment, and to $2.00 a year later. The rate for non farm workers covered by the 1966 Amendments would go to $1.70 sixty days after enactment, to $1.80 a year later, and to $2.00 the following year. For farmworkers, the rate would increase from $1.30 to $1.50 sixty days after enactment, and to $1.70 a year later. The additional wage cost over two years would be about $1.2 billion, compared with $7.2 billion for the Committee bill. The amendment was rejected by the Committee, and will be reoffered on the floor as part of an amendment in the nature of a substitute to the Committee bill sponsored by Senator Taft, Senator Packwood, Senator Beall, and myself. Below are tables prepared by the Labor Department comparing the estimated wage impacts of S. 1861 as reported, and our substitute.

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ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S. 1861 AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES, AUG. 1, 1972–AUG. 1, 1975[1]

Effective date of proposed increase, class of worker, and minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of covered employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
60 days after enactment (estimated Aug. 1, 1972)	6,103–6,125	11.6	$2,808–$2,809	0.8	52,822–52,897	$348,055–$348,076
Nonfarm employees	5,967	11.4	2,773	.8	52,252	346,519
Private employment	5,243	11.9	2,528	.9	43,998	289,764
Employees covered prior to 1966 amendments to $2	2,541	7.5	622	.3	34,057	243,159
Employees covered by 1966 amendments to $1.80	1,268	16.9	335	.9	7,504	38,954
Domestic service employees covered by 1972 amendments to $1.80	1,062	86.1	1,306	64.4	1,233	2,028
Other employees covered by 1972 Amendments to $1.80	372	30.9	265	4.7	1,204	5,623
Public employment	724	8.8	245	.4	8,254	56,755
Federal wage board and nonappropriated fund employees covered by 1966 amendments to $2	101	15.8	61	1.3	641	4,815
Federal employees covered by 1972 amendments to $1.80					1,726	14,870
State and local government employees covered by 1966 amendments to $1.80	518	19.3	123	.9	2,686	13,123
State and local government employees covered by 1972 amendments to $1.80	105	3.3	61	.3	3,201	23,947
Farmworkers	136–158	23.9–24.5	35–36	2.3	570–645	1,536–1,557
Workers covered by 1966 amendments to $1.60	113	22.8	34	2.2	495	1,515
Workers covered by 1972 amendments to $1.60	23–45	30.0–30.7	1–2	4.8	75–150	21–42
1 year later (estimated Aug. 1, 1973)	8,343–8,371	15.7	2,444–2,445	.7	53,134–53,209	369,039–369,062
Nonfarm employees	8,169	15.5	2,406	.7	52,564	367,399
Private employment	7,234	16.3	2,137	.7	44,310	307,632
Employees covered prior to 1966 amendments to $2.20	3,550	10.4	1,027	.4	34,057	255,560
Employees covered by 1966 amendments to $2	1,960	26.1	568	1.4	7,504	41,050
Domestic service employees covered by 1972 amendments to $2	1,087	88.2	281	8.3	1,233	3,375
Other employees covered by 1972 amendments to $2	637	42.0	261	3.4	1,516	7,647

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Public employment	935	11.3	269	.5	8,254		59,767
Federal wage board and nonappropriated fund employees covered by 1966 amendments to $2.20	108	16.8	40	.8	641		5,101
Federal employees covered by 1972 amendments to $2					1,726		15,614
State and local government employees covered by 1966 amendments to $2	676	25.2	184	1.3	2,686		13,862
State and local government employees covered by 1972 amendments to $2	151	4.7	45	.2	3,201		25,190
	174–202	30.5–31.3	38–39	2.3	570–645		1,640–1,663
Farmworkers							
Workers covered by 1966 amendments to $1.80	146	29.5	37	2.3	495		1,617
Workers covered by 1972 amendments to $1.80	28–56	37.3	1–2	4.3	75–150		23–46
2 years later (estimated Aug. 1, 1974)	5,606–5,641	10.5	1,774–1,775	.5	53,441–53,516		390,198–390,223
Nonfarm employees	5,883	10.2	1,726	.4	52,871		388,452
Private employment	4,413	9.9	1,436	.4	44,617		325,566
Employees covered prior to 1966 amendments at $2.20 since Aug. 1, 1973					34,057		268,745
Employees covered by 1966 amendments to $2.20	2,455	32.7	771	1.8	7,504		43,356
Domestic service employees covered by 1972 amendments to $2.20	1,094	88.7	286	7.7	1,233		3,697
Other employees covered by 1972 amendments to $2.20	864	47.4	379	3.9	1,823		9,768
Public employment	970	11.8	290	4.6	8,254		62,886
Federal wage board and nonappropriated fund employees covered by 1966 amendments at $2.20 since Aug. 1, 1973					641		5,375
Federal employees covered by 1972 amendments to $2.20					1,726		16,394
State and local government employees covered by 1966 amendments to $2.20	778	29.0	229	1.6	2,686		14,646
State and local government employees covered by 1972 amendments to $2.20	192	6.0	61	.2	3,201		26,471
	223–258	39.1–40.0	48–49	2.7–2.8	570–645		1,746–1,771
Farmworkers							
Workers covered by 1966 amendments to $2	187	37.8	47	2.7	495		1,721
Workers covered by 1972 amendments to $2	36–71	47.3–48.0	1–2	4.0	75,150		25–50

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S. 1861 AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES, AUG. 1, 1972–AUG. 1, 1975[1]—Continued

Effective date of proposed increase, class of worker, and minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of covered employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
3 years later (estimated Aug. 1, 1975)	402–445	.7–.8	163–164	.04	53,752–53,827	411,782–411,808
Nonfarm employees	129	.2	106	.02	53,182	409,923
Private employment	129	.3	106	.03	44,928	343,787
Employees covered prior to 1966 amendments at $2.20 since Aug. 1, 1973					34,057	281,741
Employees covered by 1966 amendments at $2.20 since Aug. 1, 1974					7,504	45,865
Domestic service employees covered by 1972 amendments at $2.20 since Aug. 1, 1974					1,233	4,024
Other employees covered by 1972 amendments to $2.20	129	6.0	106	.9	2,134	12,157
Public employment					8,254	66,136
Federal wage board and nonappropriated fund employees covered by 1966 amendments at $2.20 since Aug. 1, 1973					641	5,622
Federal employees covered by 1972 amendments at $2.20 since Aug. 1, 1974					1,726	17,214
State and local government employees covered by 1966 amendments at $2.20 since Aug. 1, 1974					2,686	15,479
State and local government employees covered by 1972 amendments at $2.20 since Aug. 1, 1974					3,201	27,821
Farmworkers	273–316	47.9–49.0	57–58	3.1	570–645	1,859–1,885
Workers covered by 1966 amendments to $2.20	230	46.5	56	3.1	495	1,832
Workers covered by 1972 amendments to $2.20	43–86	57.3	1–2	3.7–3.8	75–150	27–53

[1] Estimates are based on employment in September 1971 and earnings levels projected to specified dates, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 40 percent of the applicable minimum wage for tips. No allowance has been made for perquisities provided and estimates exclude changes proposed for Puerto Rico and the Virgin Islands.

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ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN THE DOMINICK-TAFT PROPOSAL AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES ON AUG. 1, 1972 [1]

Coverage status and proposed minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
Total, all employees subject to the minimum wage	1,701	3.7	$184	0.1	45,383	$301,566
Employees subject to the minimum wage prior to 1966 amendments to $1.80	272	.8	2	(2)	34,057	243,159
Employees subject to the minimum wage as a result of 1966:						
Amendments	1,429	12.6	182	.3	11,326	58,407
Federal employees to $1.80	83	12.9	24	.5	641	4,815
State and local government to $1.70	390	14.5	46	.4	2,686	13,123
Other nonfarm employees to $1.70	862	11.5	93	.2	7,504	38,954
Farmworkers to $1.50	94	19.0	19	1.3	495	1,515
Total, all employees subject to the minimum wage	3,054	6.7	488	.2	45,383	316,702
Employees subject to the minimum wage prior to 1966 amendments to $2	1,510	4.4	243	.1	34,057	255,318
Employees subject to the minimum wage as a result of 1966 amendments	1,544	13.6	245	.4	11,326	61,384
Federal employees to $2	93	14.5	34	.7	641	5,066
State and local government to $1.80	405	15.1	56	.4	2,686	13,808
Other private nonfarm employees to $1.80	925	12.3	125	.3	7,504	40,902
Farmworkers to $1.70	121	24.4	30	1.9	495	1,608
Total, all employees subject to the minimum wage	1,888	4.2	516	.2	45,383	332,592
Employees subject to the minimum wage prior to 1966 amendments at $2 since Aug. 1, 1973					34,057	268,099
Employees subject to the minimum wage as a result of 1966 amendments	1,888	16.7	516	.8	11,326	64,493
Federal employees at $2 since Aug. 1, 1973					641	5,338
State and local government to $2	538	20.0	144	1.0	2,686	14,501
Other private nonfarm employees to $2	1,350	18.0	372	.9	7,504	42,950
Farmworkers at $1.70 since Aug. 1, 1973					495	1,704

[1] Estimates are based on employment in September 1971 and earnings levels projected to Aug. 1, 1974, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 50 percent of the applicable minimum wage for tips. Estimates exclude changes proposed for Puerto Rico and the Virgin Islands.
[2] Less than 0.05 percent.

EXTENSIONS OF COVERAGE AND ELIMINATION OF EXEMPTIONS

S. 1861 as reported would extend minimum wage coverage to about 8.4 million employees, and overtime coverage to about 8.1 million employees. The minimum rates for these employees would be $1.80 sixty days after enactment, $2.00 a year later, and $2.20 thereafter. Coverage would be extended to three major groups: employees of small businesses; federal, state and local government employees; and domestic workers.

Small businesses

The Committee bill would extend minimum wage and overtime coverage to more than 2 million employees in 344,000 small businesses. By reducing the enterprise dollar volume test from $250,000 to $150,000 gross annual sales, the bill would extend coverage to about 1.3 million employees in small businesses of all types. The bill would eliminate the "establishment" exemption for small retail and service stores, extending coverage to about 730,000 employees in stores which gross

less than $150,000 annually, but are part of an "enterprise" with annual receipts totalling $150,000.

Since almost any firm grossing less than $50,000 is eligible for assistance under Small Business Administration guidelines, there can be little doubt that small businesses are indeed what we are talking about here. The importance of this sector of the economy can hardly be overestimated. There are approximately 5.4 million small businesses in this country, accounting for 95% of all businesses, close to 50% of all employment, and roughly 40% of the gross national product.

As mentioned earlier, reduction in 1966 of the enterprise sales test from $1 million to its present level of $250,000 extended minimum wage overtime coverage to about 649,000 smaller firms. The last minimum wage increase for employees of those newly covered firms ($1.60) went into effect on February 1, 1971. The 344,000 even smaller firms brought under coverage by the Committee bill would be required to pay their lowest paid employees $2.20 a little more than two years after enactment.

Inflation alone has already extended coverage to firms which are actually considerably smaller than those to which coverage was initially extended by the 1966 amendments. Since the consumer price index has increased 24% since 1967, a firm which grossed $250,000 in 1967 would gross $310,000 in 1972, without any real growth in sales. To put it another way, a firm which grossed $250,000 in 1967 is equivalent in size to a firm which grosses $190,000 in 1972. The point is that even if Congress were to retain the present $250,000 test for coverage of small business employees, inflation itself would operate soon enough to extend coverage clear down to the "mom and pop" size firms.

The additional labor costs due to these large increases (about $1 billion in direct costs annually), as well as the record-keeping burdens imposed on them seem to me to be unnecessarily harsh. Moreover, since most of these small businesses are retail and service firms, which hire many marginal employees, extension of coverage can be expected to cause increased unemployment.

Federal, State, and local government employees

The Committee bill would extend minimum wage and overtime coverage to almost 5 million federal, state and local government employees. Although the estimated direct minimum wage impact on state and local governments would be relatively small ($167 million over three years), the overtime and "ripple effect" costs could be much greater. Aside from the inflationary and unemployment effects, which are not unimportant, particularly in highly labor intensive city governments, this extension of coverage would conflict with the revenue sharing concept by mandating additonal expenses on the states and localities without furnishing them additonal resources. It would do further violence to the apparently dying constitutional principle of federalism by sending more federal officials to enforce more federal laws against state and local governments.

Domestic employees

Minimum wage coverage would be extended for the first time to 1.2 million domestic employees under the Committee bill. The direct wage

impact would be about $1.9 billion over three years. About 86% of domestic workers currently are paid less than the proposed $2.20 minimum rate. The additional cost, and record-keeping requirement would result in elimination of many of these jobs. Since most domestic employees are unskilled, and would have difficulty finding employment elsewhere, the Committee bill would leave them no alternative but welfare, once again penalizing those who need help the most.

Further, I think Congress' power to extend the Fair Labor Standards Act coverage to domestic workers is constitutionally questionable. The Fair Labor Standards Act is based on the Commerce power, which to be sure, is pervasive. But there are limits. My understanding is that Congress can regulate activities which are entirely *intra-state*, so long as there is a "rational basis" for a finding that the activity affects *interstate* commerce in a substantial way. Should the issue be tested in the courts, I think the proponents of this extension of coverage will be hard-pressed to demonstrate that interstate commerce is substantially affected by payment of sub-minimum wages to domestic employees. The weakness of their position can be illustrated best by quoting from the Committee Report, which presumably makes their strongest argument on this point:

> "The additional question of the constitutionality of coverage of domestics was raised. The Committee found that domestics and the equipment that they use in their work are directly in interstate commerce. For example, vacuum cleaners are produced in only six States, and laundry equipment is produced in only seven States creating a tremendous flow in commerce of these items used daily by domestics. In addition, employment of domestics in households frees time for the members of the household to themselves engage in activities in interstate commerce.

All I can say is that if domestic workers are in interstate commerce by virtue of the fact that they use vacuum cleaners, then the Commerce Power indeed has no limits.

Elimination of exemptions

In addition to the foregoing sweeping extensions of coverage to new categories of employees, S. 1861 as reported would further extend coverage by completely or partially eliminating many exemptions which have long been recognized under the Fair Labor Standards Act. Minimum wage coverage would be extended to some 150,000 farm workers by elimination of the exemption for "local, seasonal, hand harvest laborers". This would have the further effect of reducing the size of farms to which minimum wage coverage extends, because such employees would be included for the first time in computing the "500 man-day test". The impact of this would fall heaviest on fruit and berry farms, which utilize large numbers of hand laborers during a short harvest season. It seems inequitable that a small berry farm should be covered for the entire year merely because of labor used during a brief harvest season, while a neighboring farm which utilizes the same amount of labor annually escapes coverage merely because of the different harvest conditions for the crop grown.

Minimum wage or overtime coverage would be extended to about 1 million additional workers through total or partial repeal of exemp-

tions for the following categories of employees: agricultural processing; seafood processing; cotton ginning; sugar processing; local transit; hotels, motels, and restaurants; nursing homes; auto, aircraft and truck and trailer dealerships; catering and food service; bowling establishments; motion picture theatres; small loggers; shade grown tobacco; and oil pipelines. The overtime exemption under which supervisory personnel in retail and service industries can spend up to 40% of their time in non-supervisory work would also be eliminated.

Without getting into detail about each exemption, I think it is sufficient to say that a persuasive case was not made in Committee for most of the changes the bill would make. The posture of a majority of the Committee seemed to be that universal coverage is inevitable and that there is therefore a strong presumption that all exemptions should be eliminated. It makes more sense to me that the burden of proof should be on those who would eliminate an exemption to show a change in the special industry conditions which prompted previous Congresses to establish and retain it.

It should be kept in mind that the proposed changes in these exemptions would be likely to drive up the costs of products as well as unemployment rates in the industries affected—especially in the retail-service industries, which employ the greatest portion of the workers to whom coverage would be extended.

In summary, the sweeping extensions of coverage to new categories of employees, combined with complete or partial elimination of many exemptions, would operate to magnify the serious inflationary and unemployment effects of the minimum wage increases recommended in the Committee bill. Senator Taft and I offered amendments in Committee to strike the provisions of S. 1861 extending coverage to small business employees, federal state and local government employees and domestic employees. The Substitute amendment which will be offered on the Senate floor provides for no extensions of coverage, and no changes in exemptions.

YOUTH EMPLOYMENT

The current unemployment rate for adults is 4.9%. For youths 16–19 years of age, it is 17.5%. The rate for all minority youths in the same age category is 31.7%; for blacks alone, it is 41%. These figures, and their social implications, are alarming. But they are in fact understated, because they are based only on youths who are considered part of the work force—those who are actually looking for jobs. They do not take into account youths who are not looking for employment, either because they have tried, and are discouraged, or because they see all their friends out of work and are convinced no jobs are available. Insufficient data exist regarding the number of youths in this non-participating category, but there are undoubtedly enough to affect true unemployment rates considerably—particularly in the inner city areas.

These disquieting facts are attributable primarily to two things which occurred during the decade of the 1960's: First, the teenage population as a percentage of the total population increased from 9% to 13%. Second, Congress legislated a 60% increase in the minimum wage (from $1.00 to $1.60), and extended coverage to the teenage labor-intensive retail, service and agriculture industries, the effect of

which was to eliminate many marginal jobs held by teenagers. Congress cannot do anything about the first; it can and should do something about the latter.

I don't think it is any longer open to serious question that minimum wage increases operate to reduce job opportunities for teenagers. Teenagers have substantial disadvantages in competing with adults for jobs. They are unskilled and inexperienced; their job search is limited geographically (close to home or school); they need part-time or temporary work compatible with school schedules; they are eligible for the draft; and for a variety of reasons, they have a high turnover rate. Consequently, whenever changed economic conditions—an increase in the minimum wage, for example—exert pressure on employers to reduce labor costs, jobs held by teenagers are among the first to go.

Studies by Marvin Kosters and Finish Welch for the Rand Corporation, Professor Yale Brozen of the University of Chicago, David Kaun of the University of Pittsburgh, and Professors John M. Peterson and Charles T. Stewart, Jr., of the American Enterprise Institute, amass convincing evidence that this is true. Professor Brozen's study showed that the ratio of teenage unemployment to overall unemployment increased from 2.5 in 1960 to 3.6 in 1968, during which time the minimum wage was increaed from $1.00 to $1.60, and its coverage broadened considerably. The Kosters-Welch study concludes:

> "Our evidence indicates that increases in the effective minimum wage over the period 1954–1968 have had a significant impact on employment patterns. Minimum wage legislation has had the effect of decreasing the share of normal employment and increasing vulnerability to cyclical changes in employment for the group most 'marginal' to the work force . . . teenagers. Thus as a result of increased minimum wages, teenagers are able to obtain fewer jobs during periods of normal growth and their jobs are less secure in the face of short term employment changes.
>
> "Minimum wage legislation has undoubtedly resulted in higher wages for some of the relatively low productivity workers who were able to attain employment than those workers whold have received in its absence. The cost in terms of lost employment opportunities and cyclical vulnerability of jobs, however, has apparently been borne most heavily by teenagers. And a disproportionate share of these unfavorable employment effects appear to have occurred to non-white teenagers. The primary beneficiaries of the shifts in the pattern of employment shares occasioned by minimum wage increases were adults, and among adults, particularly white adult males."

Since the population growth of white teenagers is expected to decline to 5% over the next decade, their unemployment situation may become easier to deal with. But no relief is in sight for black youths. Their projected population growth for the remainder of this decade is 44% The excessive minimum wage increases proposed in S. 1861 as reported would diminish even further the employment opportunities of black teenagers. A study by Thomas Gale Moore, "The Effect of Minimum

Wages on Teenage Unemployment Rates," published in the August 1971 issue of the Journal of Political Economy might be intersting to note here. He developed an econometric model based on available data which suggests that past Secretary of Labor Wirtz's proposal to increase the minimum wage to $1.80 in 1970, and to $2.00 in 1971 would have increased non-white teenage unemployment by 4.6% in 1971, 11.3% in 1972, 14.5% in 1973, and 15.6% in 1974. The predictions of that econometric model based on the increases recommended in the Committee bill would be even more interesting.

Economist Milton Friedman describes the minimum wage law as "the most anti-Negro law on our statute books—in its effect, not its intent." Economist Paul A. Samuelson states the problem as succinctly as possible, in the form of a rhetorical question:

> "What good does it do a black youth to know that an employer must pay him $1.60 per hour if the fact that he must be paid that amount is what keeps him from getting a job?"

Congress recognized when it amended the Fair Labor Standards Act in 1966 that something needed to be done to soften the impact of minimum wage increases on teenage unemployment. A system was established under which employers in retail, service and agriculture who obtained certificates from the Labor Department could hire full-time students at 85% of the applicable minimum rate for up to twenty hours per week. Due to the narrow scope of that system, and the red tape involved in getting certificates, it has gone unused for the most part. The result, as current statistics demonstrate, is that it has been ineffective in reducing youth unemployment.

Opponents of a youth differential system point to the relatively low utilization rate of hours authorized under the existing certification system, and conclude that teenagers will not accept jobs for less than the minimum wage. While it is true that only about 42% of the total hours authorized under certificates were utilized in 1969, the unwillingness of teenagers to work for subminimum wages was not the primary reason. Employers were surveyed by the Labor Department, and the most frequent reason they gave for under-utilization was simply that no jobs were available. Other reasons given were that the work of teenagers is unsatisfactory, and the burdensome recordkeeping requirements and red tape involved in getting certificates. In order to minimize red tape, many employers requested authorization for the maximum hours to which they were entitled, even though they did not have sufficient job openings to utilize them completely.

The Committee bill would retain the existing 85% certification system essentially unchanged, except for extending it to fulltime students employed parttime at educational institutions. Senator Taft and I offered an amendment which would establish a new youth differential system like that in the House-passed bill. The amendment will be re-offered on the floor as part of our substitute. It would establish differential rates for all youths under 18, and fulltime students under 21, with no restrictions on type of employment. The differential rate for non-agricultural work would be $1.60 or 80% of the applicable minimum, whichever is higher. The differential for youths employed in agriculture would be $1.30 or 80% of the applicable minimum, whichever is higher. It is important to keep in mind that under this proposal no youth could be paid less than the applicable minimum rates

in effect now. No certificates would be necessary, but the Secretary of Labor would be authorized to promulgate regulations insuring that no adult employment would be displaced.

The most frequent concern expressed about such a youth differential system is that it would put teenagers in jobs presently held by adults. The Labor Department has studied this carefully, and concludes that restriction of the differential to fulltime students under 21, and youths under 18, who are seeking primarily parttime and temporary employment, greatly reduces the possibility of displacement of adult workers. The intent is not to carve out for teenagers a larger share of the job market at the expense of adult workers. It is primarily to preserve marginal jobs now held by teenagers—or others—which would be eliminated in the wake of further minimum wage increases. To the extent that some adults might be displaced by teenagers, it is likely that their employment potential is such that manpower training programs would be a better alternative.

In any event, I think the need to do something to reduce youth unemployment is so imperative that the youth differential concept should be tested now. Its effects can be assessed when minimum wage legislation is again reviewed. Dr. James S. Coleman, author of the highly regarded study on school integration, views minimum wage laws as barriers to young people who are struggling to establish roles in the adult world. He says:

> "The new goal must be to integrate the young into functional community roles that move them into adulthood. To accomplish this goal requires fundamental changes in the relation of the young to the community. Practices currently barring young people from productive activity in many areas—such as minimum wage laws and union-imposed barriers against the young—must be relaxed."
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> —*Psychology Today*, February 1972.

I agree. Youth unrest, which is so politically, socially, and economicly expensive to this country, is largely attributable to the difficulty young people have in making the transition into the complex and competitive adult job world. Increased opportunities for work experience would help considerably in making this transition—particularly for youths with incomplete educations. For that reason, I view the youth differential proposed in our substitute as an extremely promising way of helping youths get across the minimum wage barrier.

PETER H. DOMINICK.

INDIVIDUAL VIEWS OF MR. BEALL

Because I believe action should be taken on minimum wage legislation this year, I voted to report this bill to the full Senate. I, however, share the concerns expressed by my colleagues Senators Dominick, Taft, and Packwood, and reserve my right to offer and support amendments.

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